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<th>Notices of Intent:</th>
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<tbody>
<tr>
<td>Council on Postsecondary Education</td>
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<tr>
<td>Personnel Cabinet</td>
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<tr>
<td>Teachers' Retirement System</td>
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<tr>
<td>Revenue Cabinet</td>
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<tr>
<td>Board of Engineers and Land Surveyors</td>
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<tr>
<td>Department of Fish and Wildlife Resources</td>
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<td>NREPC - Air Quality</td>
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<td>NREPC - Surface Mining</td>
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<tr>
<td>Petroleum Storage Tank Environmental Assurance Fund</td>
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<tr>
<td>Justice Cabinet - Corrections</td>
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<td>Transportation Cabinet</td>
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<td>Board of Education</td>
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<td>Department of Insurance</td>
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<td>Department of Housing, Buildings and Construction</td>
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<tr>
<td>Cabinet for Health Services</td>
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<td>Cabinet for Families and Children</td>
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<th>Emergencies:</th>
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<tr>
<td>Council on Postsecondary Education</td>
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<td>Justice Cabinet - Corrections</td>
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<tr>
<td>Board of Education</td>
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<td>Cabinet for Health Services</td>
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<th>As Amended:</th>
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<tbody>
<tr>
<td>Kentucky Higher Education Assistance Authority</td>
</tr>
<tr>
<td>Personnel Cabinet</td>
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<tr>
<td>Board of Pharmacy</td>
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<td>Board of Social Work</td>
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<td>Board of Marriage and Family Therapists</td>
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<tr>
<td>Department of Fish and Wildlife Resources</td>
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<tr>
<td>Economic Development Cabinet</td>
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<tr>
<td>NREPC - Water</td>
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<tr>
<td>Justice Cabinet - Correction</td>
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<tr>
<td>Board of Education</td>
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<td>Workforce Development Cabinet</td>
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<td>Department of Financial Institutions</td>
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<tr>
<td>Department of Housing, Buildings and Construction</td>
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<td>Cabinet for Health Services</td>
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<th>Amended After Hearing:</th>
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<tr>
<td>Cabinet for Families and Children</td>
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<th>Proposed Amendments Received Through Noon, August 15, 2000:</th>
</tr>
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<tbody>
<tr>
<td>Board of Nursing</td>
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<tr>
<td>Department of Fish and Wildlife Resources</td>
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<tr>
<td>Justice Cabinet - Corrections</td>
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<tr>
<td>Transportation Cabinet</td>
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<tr>
<td>Board of Education</td>
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<tr>
<td>Education Professional Standards Board</td>
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<td>Board of Education</td>
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<tr>
<td>Cabinet for Health Services</td>
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<tr>
<td>Cabinet for Families and Children</td>
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<th>New Administrative Regulations Received Through Noon, August 15, 2000:</th>
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<tr>
<td>Board of Nursing</td>
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<tr>
<td>Board of Education</td>
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<tr>
<td>Cabinet for Health Services</td>
</tr>
</tbody>
</table>

| August 1, 2000 Minutes of the ARRS | 889 |
| Other Committee Reports (None) |

**Cumulative Supplement**

- Locator Index - Effective Dates: C - 2
- KRS Index: C - 8
- Subject Index: C - 13

**Meeting Notice**

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on September 12, 2000, at 10 a.m. in Room 149 of the Capitol Annex. See tentative agenda on pages 661-663 of this Administrative Register.
The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2000 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

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

<table>
<thead>
<tr>
<th>Title</th>
<th>Chapter</th>
<th>Regulation</th>
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<tbody>
<tr>
<td>806</td>
<td>KAR</td>
<td>50:</td>
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<td>Cabinet, Department,</td>
<td>Office, Division, or Major Function</td>
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**ADMINISTRATIVE REGISTER OF KENTUCKY**

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VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000
ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA –September 12, 2000 at 10:00 a.m., Room 149, Capitol Annex

DEPARTMENT OF LAW
Office of the Attorney General
Prosecutors Advisory Council

Medical Examination of Sexual Abuse Victims
40 KAR 3:010E. Payment schedule to hospitals, physicians and or sexual assault nurse examiners for medical examination of victims of sexual offenses. ("E" expires 1/19/01)

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. ("E" expires 12/28/00) (Deferred from August)

KENTUCKY RETIREMENT SYSTEMS

General Rules
105 KAR 1:290E. Medical Insurance Reimbursement Plan. ("E" expires 1/19/01)

BOARDS

Board of Accountancy
201 KAR 1:050. License application.
201 KAR 1:064. Verification of experience for teaching accounting courses.
201 KAR 1:065. Individual license renewal and fee.
201 KAR 1:069. Repeal of 201 KAR 1:068.
201 KAR 1:081. Firm license.
201 KAR 1:160. Peer reviews.
201 KAR 1:170. License application under substantial equivalency standards.

Board of Medical Licensure
201 KAR 5:021E. 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. ("E" expires 1/19/01)

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

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Division for Air Quality

Air Quality - General Administrative Procedures

Attainment and Maintenance of the National Ambient Air Quality Standards
401 KAR 51:200. Regional NOx emission requirements. (Public Hearing in July)

Permits, Registrations, and Prohibitory Rules
401 KAR 52:001. Definitions for 401 KAR Chapter 52.
401 KAR 52:020. Title V permits.
401 KAR 52:030. Federally-enforceable permits for non-major sources.
401 KAR 52:050. Permit application forms.
401 KAR 52:060. Acid rain permits.
401 KAR 52:070. Registration of designated sources.
401 KAR 52:080. Regulatory limit on potential to emit.
401 KAR 52:090. Prohibitory rule for hot mix asphalt plants.

JUSTICE CABINET
Department of Corrections

Office of the Secretary
501 KAR 6:020E. Corrections policies and procedures. ("E" expires 1/19/01)

Kentucky Law Enforcement Council
503 KAR 1:140E. Peace officer professional standards. ("E" expires 12/28/00) (Deferred from August)

EDUCATION PROFESSIONAL STANDARDS BOARD

Board
704 KAR 20:120E. Emergency certification and out-of-field teaching. ("E" expires 1/19/01)
704 KAR 20:210E. Substitute teachers and emergency school personnel. ("E" expires 1/19/01)
704 KAR 20:280E. Endorsement for teachers of gifted education. ("E" expires 1/19/01)
704 KAR 20:500E. Certificates for teachers of exceptional children - communication disorders. ("E" expires 1/19/01)
704 KAR 20:706E. Admission, placement, and supervision in student teaching. ("E" expires 1/19/01)
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

704 KAR 20:750E. Teachers’ National Certification Incentive Trust Fund. (“E” expires 1/19/01)

EDUCATION, ARTS, AND HUMANITIES CABINET
Board of Education
Department of Education
Office of Special Instructional Services

Fiscal Management
705 KAR 2:140E. Equalization of funding for locally operated area vocational centers and vocational departments. (“E” expires 12/18/00)
(Deferred from August)

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 2:060. 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)

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 7:060. Equipment inventory. (Deferred from July)

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

LABOR CABINET

Department of Workers’ Claims
803 KAR 25:010E. Procedure for adjustments of claims. (“E” expires 1/19/01)
803 KAR 25:012E. Resolution of medical disputes. (“E” expires 1/19/01)
803 KAR 25:070E. Charges by attorneys. (“E” expires 1/19/01)
803 KAR 25:101E. Provision of workers’ compensation rehabilitation services. (“E” expires 1/19/01)

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance

Fees and Taxes
806 KAR 4:010E. Fees of the Department of Insurance. (“E” expires 1/19/01)

Agents, Consultants, Solicitors and Adjusters
806 KAR 9:001E. Courses of studies; instructors. (“E” expires 1/19/01)
806 KAR 9:005E. Repeal of 806 KAR 9:005, 806 KAR 9:100, 806 KAR 9:150, 806 KAR 9:170, and 806 KAR 9:180. (“E” expires 1/19/01)
806 KAR 9:060E. Identification cards. (“E” expires 1/19/01)
806 KAR 9:070E. Examinations. (“E” expires 1/19/01)
806 KAR 9:120E. Unlicensed adjusters. (“E” expires 1/19/01)
806 KAR 9:200E. Volume of insurance agent exchange of business. (“E” expires 1/19/01)
806 KAR 9:210E. Time limit for replacement of evidence of licensee financial responsibility. (“E” expires 1/19/01)
806 KAR 9:220E. Continuing education. (“E” expires 1/19/01)
806 KAR 9:250E. Specialty credit insurance producer. (“E” expires 1/19/01)
806 KAR 9:260E. Rental vehicle agent. (“E” expires 1/19/01)

Unauthorized Insurers’ Prohibitions, Process and Advertising
806 KAR 11:010E. Industrial insured, government entity insured, and exempt commercial policyholder. (“E” expires 1/19/01)

Rates and Rating Organizations
806 KAR 13:150E. Property and casualty rate and rule filings. (“E” expires 1/19/01)

Insurance Contract
806 KAR 14:005E. Rate and form filing for life and health insurers. (“E” expires 1/19/01)
806 KAR 14:008E. Property and casualty insurance form filings. (“E” expires 1/19/01)

Life Insurance and Annuity Contracts
806 KAR 17:180E. Standard health benefit plan and comparison format. (“E” expires 1/19/01)
806 KAR 17:220E. Approval criteria and requirements for reentry into the Kentucky health insurance market. (“E” expires 1/19/01)
806 KAR 17:230E. Requirements regarding medical director’s signature on health care benefit denials. (“E” expires 1/19/01)
806 KAR 17:260E. Conversion policy minimum benefits. (“E” expires 1/19/01)
806 KAR 17:280E. Registration, utilization review, and internal appeal. (*E* expires 1/19/01)
806 KAR 17:290E. Independent external review program. (*E* expires 1/19/01)
806 KAR 17:300E. Provider agreement filing requirements. (*E* expires 1/19/01)

**Health Maintenance Organizations**
806 KAR 38:020E. Health maintenance organization agent license. (*E* expires 1/19/01)

**CABINET FOR HEALTH SERVICES**

**Certificate of Need**

**Office of Administrative Services**

**Vital Statistics**
901 KAR 5:050E. Fees for searches, certified copies of certificates and records. (*E* expires 1/19/01)

**Department for Public Health**

**Maternal and Child Health**
902 KAR 4:120E. Health Access Nurturing Development Services (HANSDS) Program. (*E* expires 1/19/01)

**State Health Plan**
902 KAR 17:041. State Health Plan for facilities and services.

**Radiology** (Deferred from July)
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. (*E* expires 11/18/00) (Deferred from July)

**Department for Medicaid Services**

**Medicaid Services**
907 KAR 1:012 & E. Inpatient hospital services. (*E* expires 10/18/00)
907 KAR 1:013E. Payments for hospital inpatient services. (*E* expires 1/19/01)
907 KAR 1:044E. Mental health center services. (*E* expires 11/18/00) (Deferred from July)
907 KAR 1:320E. Kentucky patient access and care system (KenPAC). (*E* expires 1/19/01)
907 KAR 1:475E. Repeal of 907 KAR 1:470, 907 KAR 1:472 and 907 KAR 1:474. (*E* expires 1/19/01)
907 KAR 1:475E. Durable medical equipment covered services and reimbursement. (*E* expires 1/19/01)
907 KAR 1:628E. Reimbursement of dental services. (*E* expires 1/19/01)
907 KAR 1:631E. Reimbursement of vision program services. (*E* expires 1/19/01)
907 KAR 1:790E. Medicaid service category expenditure information. (*E* expires 1/19/01)

**Payment and Services**
907 KAR 3:068 & E. Nonemergency medical transportation waiver services and payments. (*E* expires 11/18/00)
907 KAR 3:120E. Chiropractic services and payments. (*E* expires 1/19/01)
907 KAR 3:140E. Coverage and payments for the Health Access Nurturing Development Services (HANSDS) Program. (*E* expires 1/19/01)

**Department for Mental Health and Mental Retardation Services**

**Mental Health**
908 KAR 2:210E. Domestic violence offender treatment certification standards. (*E* expires 10/18/00) (Deferred from June)

**CABINET FOR FAMILIES AND CHILDREN**

**Department for Community Based Services**

**Family Support**
921 KAR 1:400E. Establishment, review, and modification of child support and medical support orders. (*E* expires 1/19/01)

**Protection and Permanency**

**Child Support**
922 KAR 1:050E. Approval of adoption assistance. (*E* expires 1/19/01)
922 KAR 1:140. Foster care and adoption permanency services. (Amended After Hearing)
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) (Deferred from August)
922 KAR 1:310. Standards for child-placing agencies. (Amended After Hearing) (Deferred from August)
922 KAR 1:360E. Private child care placements, levels of care and payment. (*E* expires 1/19/01)
922 KAR 1:380. Standards for emergency shelter child-caring facilities. (Amended After Hearing) (Deferred from August)
922 KAR 1:390. Standards for residential child-caring facilities. (Amended After Hearing) (Deferred from August)
922 KAR 1:400. Supportive services.
922 KAR 1:410. Family Preservation Program. (Deferred from August)
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, AUGUST 15, 2000

COUNCIL ON POSTSECONDARY EDUCATION

August 14, 2000

(1) 13 KAR 1:030, Campus security. The subject matter of the proposed amendment to the administrative regulation is reporting requirements for private postsecondary education institutions relative to campus security incidents and crimes.

(2) The Council on Postsecondary Education (CPE) is charged by 2000 Ky. Acts ch. 190, p. 478 with responsibility for establishing reporting requirements and formats for crime reporting and statistics at private postsecondary education institutions. This is a new administrative regulation replacing an emergency administrative regulation filed August 14, 2000.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 27, 2000, at 10 a.m., in Conference Room A, Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, 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 5 persons, or an administrative body or association, request this public hearing and agree in writing to be present at the public hearing, it will be held as scheduled.
(c) 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 September 27, 2000, the public hearing will be canceled.
(d) Persons wishing to request a public hearing should mail their written request no later than September 11, 2000 to the following address: Council on Postsecondary Education, Attn: Dennis L. Taulbee, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, Phone: (502) 573-1555; Fax (502) 573-1535.

(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 the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Council on Postsecondary Education at the address listed above.
(c) The following information relates to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the 13 KAR 1:030, Campus security is 2000 Ky. Acts ch. 190, p. 478.
(b) The administrative regulation the CPE intends to promulgate is a new administrative regulation replacing an emergency administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: In order to implement effectively the provisions of the Michael Minger Act and to ensure that the public is fully informed about crime on college and university campuses, an administrative regulation is required to set forth the details of reporting.
(d) The benefit expected from the administrative regulation is to ensure that students and the public are fully informed about campus crimes.
(e) This administrative regulation will be implemented as follows: By the CPE and, by private postsecondary education institutions.

August 14, 2000

(1) 13 KAR 2:090, Kentucky Educational Excellence Scholarship (KEES) Program. The subject matter of the proposed amendment to the administrative regulation is a scholarship program for high school students.

(2) The Council on Postsecondary Education (CPE) is charged by KRS 164.7871-164.7885 with responsibility for policy development and the overall administration of the KEES Program.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 21, 2000, at 10 a.m., in Conference Room A, Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, 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 5 persons, or an administrative body or association, request this public hearing and agree in writing to be present at the public hearing, it will be held as scheduled.
(c) 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 September 21, 2000, the public hearing will be canceled.
(d) Persons wishing to request a public hearing should mail their written request no later than September 11, 2000 to the following address: Council on Postsecondary Education, Attn: Roger Sugarman, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, Phone: (502) 573-1555; Fax (502) 573-1535.

(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 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 Council on Postsecondary Education at the address listed above.
(c) The following information relates to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the 13 KAR 2:090, Kentucky Educational Excellence Scholarship (KEES) Program is KRS 164.7871-164.7885.
(b) The administrative regulation the CPE intends to promulgate is an amendment to an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: In order to implement effectively the provisions of the Kentucky Educational Excellence Scholarship Program, the council needs to revise the administrative regulation to address a number of issues that have risen in the first year of the program.
(d) The benefit expected from the administrative regulation is to ensure that students are able to understand the requirements for admission to
state-supported postsecondary education institutions.

(e) This administrative regulation will be implemented as follows: By the CPE, KHEAA and KDE with participation by local education agencies and, by public and private postsecondary education institutions.

August 14, 2000

(1) 13 KAR 2:100, Campus security. The subject matter of the proposed amendment to the administrative regulation is reporting requirements for public postsecondary education institutions relative to campus security incidents and crimes.

(2) The Council on Postsecondary Education (CPE) is charged by 2000 K y. Acts ch. 190, p. 478 with responsibility for establishing reporting requirements and formats for crime reporting and statistics at state-supported postsecondary education institutions. This is a new administrative regulation replacing an emergency administrative regulation filed August 14, 2000.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 27, 2000, at 10 a.m., in Conference Room A, Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, 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 5 persons, or an administrative body or association, request this public hearing and agree in writing to be present at the public hearing, it will be held as scheduled.

(c) 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 September 27, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request no later than September 18, 2000 to the following address: Council on Postsecondary Education, Attn: Dennis L. Taulbee, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, Phone: (502) 573-1555; Fax (502) 573-1535.

(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 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 Council on Postsecondary Education at the address listed above.

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the 13 KAR 2:100, Campus security is 2000 Ky. Acts ch. 150, p. 478.

(b) The administrative regulation the CPE intends to promulgate is a new administrative regulation replacing an emergency administrative regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: In order to implement effectively the provisions of the Michael Minger Act and to ensure that the public is fully informed about crime on college and university campuses, an administrative regulation is required to set forth the details of reporting.

(d) The benefit expected from the administrative regulation is to ensure that students and the public are fully informed about campus crimes.

(e) This administrative regulation will be implemented as follows: By the CPE and, by public postsecondary education institutions.

PERSONNEL CABINET

August 14, 2000

(1) 101 KAR 2:106, Annual leave sharing.

(2) The Personnel 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 September 21, 2000 at 1:30 p.m. at 200 Fair Oaks Lane, Suite 516, 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 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 September 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: Daniel F. Egbers, General Counsel, Kentucky Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Telephone: (502) 564-4460, Fax: (502) 564-7603, E-Mail:Dan.egbers@mail.state.ky.us

(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 Personnel 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 annual leave sharing is HB 265.

(b) The administrative regulation that the Personnel Cabinet intends to promulgate will be 101 KAR 2:106, Annual leave sharing. It will establish procedures for annual leave sharing in conformity with HB 265. The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation will establish procedural rules for employees who wish to share annual leave with fellow employees who have exhausted their available leave balances and cannot attend work due to a catastrophic loss or a natural disaster which impacted their homes and possessions.

(c) The benefits expected from administrative regulation are: Uniform rules administrating the Annual Leave Sharing Program will be created.

(d) The administrative regulation will be implemented as follows: Upon approval by the Governor and review by the State Personnel Board, the proposed administrative regulation will implement the Annual Leave Sharing Program as soon as administratively feasible.

August 14, 2000
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(1) 101 KAR 2:180. Employee performance evaluation system.

(2) The Personnel 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 September 21, 2000 at 1:30 p.m. at 200 Fair Oaks Lane, Suite 516, 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 September 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: Daniel F. Eggers, General Counsel, Kentucky Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Telephone: (502) 564-4480, Fax: (502) 564-7603, E-mail: Dan.Eggers@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 Personnel 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 Employee Performance Evaluation System is HB 763 which amended KRS 18A.110.

(b) The administrative regulation that the Personnel Cabinet intends to promulgate will be 101 KAR 2:80, Employee Performance Evaluation System. It will establish procedures for employee evaluations in conformity with HB 763. The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation will establish procedural rules for annual employee performance evaluations.

(c) The benefits expected from administrative regulation are: Uniform rules administering employee performance evaluations will be established.

(d) The administrative regulation will be implemented as follows: Upon review by the State Personnel Board, the proposed administrative regulation will implement the employee performance evaluation system as soon as administratively feasible.

TEACHERS' RETIREMENT SYSTEM

August 15, 2000

(1) 102 KAR 1:220. Final average salary based on average of three (3) highest years.

(2) Teachers' Retirement System of the State of Kentucky, 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 September 21, 2000, at 9 a.m. local time, in the Board Room located on the second floor of the main building of the Teachers' Retirement System of the State of Kentucky, 479 Versailles 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 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 September 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: Robert B. Barnes, General Counsel, Teachers' Retirement System of the State of Kentucky, 479 Versailles Road, Frankfort, Kentucky 40601, (502) 573-3266, (502) 573-0199 (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 Robert B. Barnes, General Counsel, Teachers' Retirement System of the State of Kentucky, at the address or phone number provided above.

(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.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to a final average salary based upon the 3 highest average salaries is KRS 161.220(9) and 161.310.

(b) The administrative regulation that the Teachers' Retirement System of the State of Kentucky intends to promulgate is a new regulation that will clarify that the Board of Trustees of the Teachers' Retirement System of the state of Kentucky has approved for calculation of retirement annuities a final average salary based upon the 3 highest average salaries only for those members who are both at least 55 years of age and have at least 27 years of service credit at the time of their initial retirement.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 161.220(9) authorizes the Board of Trustees of the Teachers' Retirement System of the State of Kentucky to approve for calculation of retirement annuities a final average salary based upon the 3 highest average salaries for those members who are at least 55 years of age and have at least 27 years of service credit. The function of this administrative regulation shall be to clarify and emphasize the position of the Board of Trustees that approval has been granted for the calculation of annuities based upon a final average salary of the 3 highest average salaries only for those members who meet the age and service requirements at the time of their initial retirement.

(d) The benefit expected from this administrative regulation is: To assist members in making informed retirement decisions by providing criteria in the regulations for the calculation of retirement annuities based upon a final average salary of the 3 highest salaries.

(e) The administrative regulation will be implemented as follows: By the Teachers' Retirement System of the State of Kentucky by approval of
the calculation of retirement annuities based upon a final average salary of the 3 highest salaries only for those members who meet the age and service requirements at the time of their initial retirement, and by applying a final average salary based upon the 5 highest salaries for those members not meeting the age and service requirements at the time of their initial retirement.

REVENUE CABINET
Department of Law
Division of Tax Policy

August 14, 2000

(1) 103 KAR 1:060. Electronic funds transfer.

(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 September 28, 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 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 September 28, 2000, the public hearing will be cancelled.

5(a) Persons wishing to request a public hearing should mail their written request to the following address: Edward A. Mattingly, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone Number (502) 564-6943, 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 electronic fund transfer is KRS 131.155.

(b) The administrative regulation that the Revenue Cabinet intends to promulgate will amend 103 KAR 1:060. The proposed amendment will establish requirements relating to the remittance of funds to the Revenue Cabinet via electronic fund transfer.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation is specifically required by KRS 131.155(2) and 131.155(3) which authorize the Revenue Cabinet to establish electronic fund transfer requirements and guidelines for the payment of taxes and fees administered by the Cabinet by the promulgation of an administrative regulation.

(d) The benefit expected from the proposed administrative regulation is as follows: The establishment of requirements and guidelines relating to the remittance of funds to the cabinet via electronic fund transfer.

(e) Administrative regulation will be implemented as follows: The Revenue Cabinet shall advise affected taxpayers and other remitters of funds of the requirements and guidelines.

KENTUCKY STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

July 26, 2000

(1) 201 KAR 18:133. A new administrative regulation on administrative hearings.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 2000, at 10 a.m., EDT, at 160 Democrat 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 September 28, 2000, the public hearing will be cancelled.

5(a) Persons wishing to request a public hearing should mail their written request to the following address: Larry S. Perkins, Executive Director, 160 Democrat Drive, Frankfort, Kentucky 40601, Phone: (502) 573-2680, Fax: (502) 573-6687.

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors 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 administrative hearings KRS 322.290(4).

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will replace an existing administrative regulation and will govern all administrative hearings before the board.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The administrative regulation will provide for fair conduct in the administrative hearings conducted by the board.

(d) The benefits expected from administrative regulation are: It brings administrative hearings before the board into conformity with KRS Chapter 13B.

(e) The administrative regulation will be implemented as follows: All persons licensed by the board who are the subject of an administrative
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

July 26, 2000

(1) 201 KAR 18:141. Repeal of 201 KAR 18:131 and 201 KAR 18:140.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 2000, at 10 a.m., EDT, at 160 Democrat Drive, 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 September 28, 2000, the public hearing will be cancelled.

(c) Persons wishing to request a public hearing should mail their written request to the following address: Larry S. Perkins, Executive Director, 160 Democrat Drive, Frankfort, Kentucky 40601, Phone: (502) 573-2680, Fax: (502) 573-6687.

(d) On the 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.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the repeal of an administrative regulation is KRS 322.290, which is the statute that grants the board authority to adopt administrative regulations.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will repeal 201 KAR 18:131 and 201 KAR 18:140.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The board has filed a notice of intent to promulgate new administrative regulations to replace the administrative regulations being repealed.

(d) The benefits expected from the administrative regulation are: The repeal of the administrative regulations will enable the board to promulgate administrative regulations that meet the needs of current engineering and surveying practice and to bring its administrative hearings procedures into compliance with controlling statutes.

(e) The administrative regulation will be implemented as follows: The administrative regulation is self- implementing.

July 26, 2000

(1) 201 KAR 18:142. A new administrative regulation on a code of professional practice and conduct for professional engineers and professional land surveyors.

(2) The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors 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 September 28, 2000, at 10 a.m., EDT, at 160 Democrat Drive, Frankfort, Kentucky 40601.

(b) 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.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 2000, at 10 a.m., EDT, at 160 Democrat Drive, Frankfort, Kentucky 40601.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Larry S. Perkins, Executive Director, 160 Democrat Drive, Frankfort, Kentucky 40601, Phone: (502) 573-2680, Fax: (502) 573-6687.

(b) On the 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.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to a code of professional practice and conduct is KRS 322.290(11).

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will replace an existing administrative regulation and will be a new code of professional practice and conduct.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The administrative regulation will provide a code of ethics for professional engineers and professional land surveyors.

(d) The benefits expected from the administrative regulation are: The administrative regulation will establish a code of ethics that more adequately reflects the needs of current professional practice.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be posted on the board's website.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources

August 15, 2000

(1) 301 KAR 2:081, Pet and propagation permits.

(2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.

- 669 -
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 21, 2000 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west cf Frankfort on U.S. 60.

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, Phone (502) 564-3400 and Fax (502) 564-0506.

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 150.170 and 150.180.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:001 as follows: It will remove a definition of "wildlife" that is in conflict with current statutes, redefine wildlife which may or may not be held in captivity and establish holding specifications for confined native wildlife.

(c) The necessity and function of the proposed administrative regulation is to control the taking and holding of live of native wildlife.

(d) The benefits expected from the proposed administrative regulation are protection of wildlife populations from over exploitation and assuring that wildlife is held under adequate conditions.

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

August 15, 2000

(1) 301 KAR 2:082, Importing and holding exotic wildlife.

(2) The Department of Fish and Wildlife Resources intends to amend the above 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 September 21, 2000 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west cf Frankfort on U.S. 60.

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, Phone (502) 564-3400 and Fax (502) 564-0506.

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation governing importing and holding wildlife is KRS 150.180(6) and 150.280.

(b) The administrative regulation will amend an existing administrative regulation. It will allow the importation and holding of exotic wildlife, except for certain species that could be injurious to native ecosystems and bring the current regulation in compliance with statute.

(c) The necessity and function of the proposed administrative regulation is to establish the procedure for obtaining a transportation permit for exotic wildlife and to prohibit the importation of certain species.

(d) The benefits expected from the administrative regulation are protection of native ecosystems from exotic species, and assisting local governments in the elimination of potential nuisances.

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

August 15, 2000

(1) 301 KAR 2:083, Holding live cervids.

(2) The Department of Fish and Wildlife Resources 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 September 21, 2000 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, Phone (502) 564-3400 and Fax (502) 564-0506.

(b) On the request for a public hearing, a person shall state:
1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."
VOLUME 27, NUMBER 3 – SEPTEMBER 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 from the department 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 this subject is KRS 150.180.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It is a new regulation that will establish the standards for holding members of the Senvideae family.

(c) The necessity and function of the proposed administrative regulation is to promote and maintain healthy native populations of wildlife.

(d) The benefit expected from the administrative regulation is the maintenance of healthy wildlife populations through the prevention of disease transmission and escaped exotic wildlife.

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

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Division for Air Quality

August 14, 2000

(1) 401 KAR 51:001, Definitions and abbreviations of terms used in 401 KAR Chapter 51, is being amended. The subject matter of this administrative regulation is the establishment of definitions for terms used in 401 KAR Chapter 51.

(2) The Division for Air Quality intends to promulgate an amendment to the 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 September 26, 2000, at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(a) The public hearing will be held if it is requested at least 10 calendar days prior to September 26, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree 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 September 26, 2000, the public hearing will be stopped.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The telephone number is (502) 573-3382, extension 338.

(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 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 Division for Air Quality at the address listed above.

Information relating to the proposed amendments to this administrative regulation.

The amendments to the administrative regulation that the Division for Air Quality intends to promulgate will include the addition of new terms used in the administrative regulations promulgated to implement the requirements of the federal mandate to reduce nitrogen oxides emissions (NOx SIP Call) which was published as a final rule in the Federal Register at 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000). Additional amendments are also being proposed to bring this administrative regulation into compliance with KRS Chapter 13A drafting requirements. Since the NOx SIP Call requirements are being promulgated in 401 KAR Chapter 51, the chapter title is being changed from "New Source Requirements; Nonattainment Areas" to "Attainment and Maintenance of the National Ambient Air Quality Standards."

(c) The necessity and function of the proposed amendment to this administrative regulation is as follows: 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, which provides for the defining of terms to be used in 401 KAR Chapter 51, is being amended to include new terms used in implementing the NOx SIP Call and to bring it into compliance with KRS Chapter 13A. The definitions to be proposed in the amendment to this administrative regulation, which have corresponding federal definitions, will be clarified and simplified but are not intended to be more stringent or otherwise different than the federal mandate.

(d) The expected benefit from the amendment to this administrative regulation is that Kentucky's State Implementation Plan (SIP) will meet the requirements of the federal NOx SIP Call. The proposed amendment will also bring this administrative regulation into compliance with KRS Chapter 13A drafting requirements.

(e) The amended administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, the administrative regulations in 401 KAR Chapter 51 will use these definitions as part of the existing regulatory program.

August 14, 2000

(1) 401 KAR 51:150, General provisions for NOx emission reductions. The subject matter of this administrative regulation is the establishment of general provisions for sources subject to the federal mandate to reduce nitrogen oxides emissions (NOx SIP Call) which was published as a final rule in the Federal Register at 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(2) The Division for Air Quality intends to promulgate a new 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 September 26, 2000, at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(a) The public hearing will be held if it is requested at least 10 calendar days prior to September 26, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an adminis-
tative body or association, agree 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 September 26, 2000, the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The telephone number is (502) 573-3382, extension 338.

(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 may file a request to be informed by the administrative body.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the proposed administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7410, and 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation establishes general provisions for sources subject to the requirements of the NOx SIP Call. Since the NOx SIP Call requirements are being promulgated in 401 KAR Chapter 51, the chapter title is being changed from "New Source Requirements; Nonattainment Areas" to "Attainment and Maintenance of the National Ambient Air Quality Standards."

(c) The necessity and function of the proposed administrative regulation is as follows: 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. The proposed administrative regulation establishes general provisions for sources subject to the requirements of the NOx SIP Call. A benefit derived from the proposed administrative regulation is that Kentucky's State Implementation Plan (SIP) will meet the requirements of the federal NOx SIP Call. In addition, Kentucky's sources will be able to work with the state rather than the U.S. EPA to meet the requirements of the NOx SIP Call.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, owners and operators of sources subject to the requirements of the NOx SIP Call shall comply with the provisions of 401 KAR 51:150 as part of the existing regulatory program.

August 14, 2000

(1) 401 KAR 51:160, NOx requirements for large utility and industrial boilers. The subject matter of this administrative regulation is the establishment of emission limits for large utility and industrial boilers to meet the requirements of the federal mandate to reduce nitrogen oxides emissions (NOx SIP Call) which was published as a final rule in the Federal Register at 63 Fed. Reg. 57355 (October 27, 1996), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(2) The Division for Air Quality intends to promulgate a new 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 September 26, 2000, at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested at least 10 calendar days prior to September 26, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree 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 September 26, 2000, the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The telephone number is (502) 573-3382, extension 338.

(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 may file a request to be informed by the administrative body.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the proposed administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7410, and 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation establishes requirements necessary to meet the NOx SIP Call. Since the NOx SIP Call requirements are being promulgated in 401 KAR Chapter 51, the chapter title is being changed from "New Source Requirements; Nonattainment Areas" to "Attainment and Maintenance of the National Ambient Air Quality Standards."

(c) The necessity and function of the proposed administrative regulation is as follows: 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. Additionally, the NOx SIP Call requires Kentucky and 18 other states in the Eastern United States (plus the District of Columbia) to reduce NOx emissions during the ozone season (May 1 through September 30) beginning in the year 2003. The proposed administrative regulation will establish NOx emission limits for large utility and industrial boilers; procedures for demonstrating compliance with the limits; a method for distribution of emission allowances; and penalties for exceeding the allowances. The provision is proposing to impose the limits by creating caps on the total NOx emissions allowed from these sources statewide and distributing portions of that allowance to each affected source. The proposed administrative regulation
will also include provisions for new source set-asides.

d) The expected benefit from the proposed administrative regulation is that Kentucky's State Implementation Plan (SIP) will meet the requirements of the federal NOx SIP Call. In addition, Kentucky's electric utilities and other sources having large industrial boilers will be able to work with the state rather than the U.S. EPA to meet the requirements of the NOx SIP Call.

e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, owners and operators of sources having large utility and industrial boilers shall comply with the provisions of 401 KAR 51:160 as part of the existing regulatory program.

August 14, 2000

(1) 401 KAR 51:170, NOx requirements for cement kilns. The subject matter of this administrative regulation is the establishment of emission control requirements for cement manufacturing plants to meet the requirements of the federal mandate to reduce nitrogen oxides emissions (NOx SIP Call) which was published as a final rule in the Federal Register at 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(2) The Division for Air Quality intends to promulgate a new 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 September 26, 2000, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested at least 10 calendar days prior to September 26, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree 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 September 26, 2000, the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3767. The telephone number is (502) 573-3382, extension 338.

(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 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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the proposed administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7410, and 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation establishes requirements necessary to meet the NOx SIP Call. Since the NOx SIP Call requirements are being promulgated in 401 KAR Chapter 51, the chapter title is being changed from "New Source Requirements; Nonattainment Areas" to "Attainment and Maintenance of the National Ambient Air Quality Standards."

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-103 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. Additionally, the Cabinet for Health and Family Services in Kentucky and 18 other states in the Eastern U.S. plus the District of Columbia to reduce NOx emissions during the ozone season (May 1 through September 30) beginning in the year 2003. The proposed administrative regulation establishes NOx emission control requirements for cement manufacturing plants and procedures for demonstrating compliance with those requirements. The cabinet proposes to impose the limits by requiring each cement manufacturing plant to reduce NOx emissions by 30%.

(d) The expected benefit from the proposed administrative regulation is that Kentucky's State Implementation Plan (SIP) will meet the requirements of the federal NOx SIP Call. In addition, Kentucky's cement manufacturing plants will be able to work with the state rather than the U.S. EPA to meet the requirements of the NOx SIP Call.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, owners and operators of cement manufacturing plants shall comply with the provisions of 401 KAR 51:170 as part of the existing regulatory program.

August 14, 2000

(1) 401 KAR 51:180, NOx credits for early reduction and emergency. The subject matter of this administrative regulation is the establishment of a program for distributing emission credits granted to Kentucky as part of the federal mandate to reduce nitrogen oxides emissions (NOx SIP Call), published as a final rule in the Federal Register at 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(2) The Division for Air Quality intends to promulgate a new 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 September 26, 2000, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested at least 10 calendar days prior to September 26, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree 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 September 26, 2000, the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel
VOLUME 27, NUMBER 3—SEPTEMBER 1, 2000

Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The telephone number is (502) 573-3382, extension 338.

(a) 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."

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

(p) Persons who wish to file this request may obtain a request form from the Division for Air Quality at the address listed above.

(q) Information relating to the proposed administrative regulation.


(s) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation establishes provisions necessary to comply with the requirements of the NOx SIP Call. Since the NOx SIP Call requirements are being promulgated in 401 KAR Chapter 51, the chapter title is being changed from "New Source Requirements; Nonattainment Areas" to "Attainment and Maintenance of the Ambient Air Quality Standards."

(t) The necessity and function of the proposed administrative regulation is as follows: 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. Additionally, the NOx SIP Call requires Kentucky and 18 other states in the Eastern U.S. plus the District of Columbia to reduce NOx emissions during the ozone season (May 1 through September 30) beginning in the year 2003. The proposed administrative regulation provides for the distribution of NOx allowances from a compliance supplement pool allocated to Kentucky by the U.S. EPA for sources that reduce NOx emissions before the compliance deadline. It also provides for the setting-aside of unused credits to assist sources that are unable to meet the compliance deadline.

(u) The expected benefit from the proposed administrative regulation is that Kentucky's State Implementation Plan (SIP) will meet the requirements of the federal NOx SIP Call. In addition, Kentucky's electric utilities and other sources with large industrial boilers will be able to meet the requirements of the NOx SIP Call more efficiently and effectively.

(v) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, owners and operators of sources having large utility and industrial boilers shall comply with the provisions of 401 KAR 51:180 as part of the existing regulatory program.

August 14, 2000

(1) 401 KAR 51:190, Banking and trading NOx allowances. The subject matter of this administrative regulation is the establishment of a program for the banking and trading of emission allowances as recommended in the federal mandate to reduce nitrogen oxides emissions (NOx SIP Call), published as a final rule in the Federal Register at 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(2) The Division for Air Quality intends to promulgate a new 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 September 26, 2000, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(4) The public hearing will be held if it is requested at least 10 calendar days prior to September 26, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree to be present at the public hearing.

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

(b) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(c) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5) (a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The telephone number is (502) 573-3382, extension 338.

(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 may file a request to be informed by the administrative body.

(a) Persons who wish to file this request may obtain a request form from the Division for Air Quality at the address listed above.

(b) Information relating to the proposed administrative regulation.

(c) The statutory authority for the promulgation of the proposed administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7410, and 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(d) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation establishes requirements necessary to comply with the requirements of the NOx SIP Call. Since the NOx SIP Call requirements are being promulgated in 401 KAR Chapter 51, the chapter title is being changed from "New Source Requirements; Nonattainment Areas" to "Attainment and Maintenance of the Ambient Air Quality Standards."

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, owners and operators of sources having large utility and industrial boilers shall comply with the provisions of 401 KAR 51:190 as part of the existing regulatory program.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

August 14, 2000

(1) 401 KAR 51:195, NOx opt-in provisions. The subject matter of this administrative regulation is the establishment of provisions for individual sources to opt into the NOx Budget Trading Program provided under the federal mandate to reduce nitrogen oxides emissions (NOx SIP Call) which was published as a final rule in the Federal Register at 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(2) The Division for Air Quality intends to promulgate a new administrative regulation governing the subject matter listed above.

(a) A public hearing to receive oral and written comments on the proposed administrative regulation shall be held at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(b) The public hearing will be held if it is requested at least 10 calendar days prior to September 26, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree to be present at the public hearing.

(c) 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 September 26, 2000, the public hearing will be canceled.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below.

(5)(a) Persons wishing to request a public hearing should mail or FAX to the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The telephone number is (502) 573-3382, extension 338.

(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 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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the proposed administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7410, and 63 Fed. Reg. 57355 (October 27, 1998), as amended at 65 Fed. Reg. 11222 (March 2, 2000).

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation establishes provisions for individual sources to opt into the NOx Budget Trading Program provided under the NOx SIP Call. Since the NOx SIP Call requirements are being promulgated in 401 KAR Chapter 51, the chapter title is being changed from "New Source Requirements; Nonattainment Areas" to "Attainment and Maintenance of the National Ambient Air Quality Standards."

(c) The necessity and function of the proposed administrative regulation is as follows: 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. Additionally, the NOx SIP Call requires Kentucky and 18 other states in the Eastern U.S. plus the District of Columbia to reduce NOx emissions during the ozone season (May 1 through September 30) beginning in the year 2003. The proposed administrative regulation establishes provisions for individual sources to opt into the NOx Budget Trading Program provided under the NOx SIP Call.

(d) The expected benefit from the proposed administrative regulation is that Kentucky's State Implementation Plan (SIP) will meet the requirements of the federal NOx SIP Call. In addition, Kentucky sources will be able to meet the requirements of the NOx SIP Call more efficiently and effectively.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, owners and operators of sources subject to the requirements of the NOx SIP Call shall comply with the provisions of 401 KAR 51:195 as part of the existing regulatory program.

Department for Surface Mining Reclamation and Enforcement

August 8, 2000

(1) 405 KAR 18:210, Subsidence control. The subject matter of this administrative regulation is performance standards for prevention or control of subsidence and for correction of subsidence damage to surface lands and structures.

(2) The Natural Resources and Environmental Protection 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 September 28, 2000 at 10 a.m. (Eastern Time), in Room D-16 (Training Room) of the Department for Surface Mining Reclamation and Enforcement at 2 Hudson Hollow, Frankfort, Kentucky.

(a) The public hearing will be held if it is requested at least 10 calendar days prior to September 28, 2000, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members; provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree 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 September 28, 2000, the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Jim Villines, Department for Surface Mining, 2 Hudson Hollow, Frankfort, Kentucky 40601. The FAX number is (502) 564-6940, extension 436. The telephone number is (502) 564-6900, extension 436.

(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 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 Department for Surface Mining at the address given in (5)(a)
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 350.028, 350.151, 350.465, 30 CFR Parts 730-733, 735, 817.121-122, 917, 30 USC 1253, 1255, 1266, 1309a.

(b) The administrative regulation that the Department for Surface Mining intends to promulgate will amend an existing regulation. The proposed administrative regulation will delete the requirement for presubmission surveys of structures in 405 KAR 18:210 Section 1(4), will amend Section 2(2) regarding the timing of notice to surface owners before mining beneath their property, and will delete the rebuttable presumption of causation of subsidence damage in Section 3(4). Deletion of presubmission surveys of structures and deletion of the rebuttable presumption of causation of subsidence damage are in response to the suspension (64 FR 71652, December 22, 1999) of the corresponding federal regulations pursuant to the April 27, 1999 decision of the U.S. Court of Appeals for the District of Columbia Circuit, National Mining Association v. Babbitt, 173 F.3d 906 (1999). The minimum period of notice to property owners prior to undermining, in the event of emergency or other unforeseen conditions in the underground mining, will be increased from 10 days (or less if waived by the property owner) to 30 days, because presubmission surveys of structures will no longer be required.

(c) The necessity and function of the proposed administrative regulation are as follows: KRS 350.028(1), (5), 350.151(1), and 350.465(2) authorize the cabinet to promulgate administrative regulations relating to surface and underground coal mining operations. This administrative regulation establishes requirements for prevention or control of subsidence and for correction of subsidence damage to surface lands and structures. After this administrative regulation is amended as described in (7)(b) above, it will continue to differ from its federal counterparts at 30 CFR 817.121-122. Section 3(2), regarding repair or compensation for subsidence damage to noncommercial buildings and occupied residential dwellings and related structures existing at the time of mining, is not limited to damage resulting from underground mining activities conducted after October 24, 1992, the effective date of 30 USC 1309a as created by PL 102-466, the Energy Policy Act of 1992, whereas the federal counterpart regulation at 30 CFR 817.121(c)(2) is so limited. Section 3(2) is not limited to subsidence damage resulting from underground mining activities conducted after October 24, 1992 because that would retroactively remove protection currently existing under this administrative regulation and applicable state law. Section 3(5)(c) allows the additional performance bond amount for subsidence damage to be released or returned promptly after the cabinet determines the permittee has satisfactorily completed the required repair or compensation for subsidence damage. The federal counterpart to this section at 405 KAR 8:010, Section 12, does not include any provision for prompt release of the additional performance bond amount after the subsidence damage is corrected. The purpose of the additional bond is to guarantee that the cabinet will have the money to repair or compensate if the permittee fails to do so. Since the repair or compensation guaranteed by the additional bond amount must be satisfactorily completed before any release or return of the bond can take place, the purpose of the bond will have been fulfilled and thus the cabinet believes the prompt release or return is not inconsistent with the federal regulations. Section 5(1), regarding permittee submission of an annual plan of underground workings, does not provide for confidentiality of the annual plan. The federal counterpart at 30 CFR 817.121(g) provides that information submitted with the plan may be held as confidential in accordance with 30 CFR 773.13(d) if requested by the permittee. The cabinet's counterpart to 30 CFR 773.13(d) is 405 KAR 8:010, Section 12. The cabinet believes it is unlikely that any information submitted in the annual plan of underground workings will qualify for confidentiality under 405 KAR 8:010, Section 12, and that it would be misleading to mention confidentiality in connection with the plan, thereby creating the false impression that the plan generally would be held confidential on request.

(d) The expected benefits from this administrative regulation are consistency with the corresponding federal requirements, elimination of costs to permittees for presubmission surveys of structures, and elimination of the legal burden on permittees that results from the rebuttable presumption of causation of subsidence damage.

(e) The proposed administrative regulation will be implemented as follows: The amendments described herein will be implemented upon the effective date of this administrative regulation, under the cabinet's existing regulatory program.

PUBLIC PROTECTION AND REGULATION CABINET
Office of the Petroleum Storage Tank Environmental Assurance Fund

August 3, 2000

(1) 415 KAR 1:080. Claims procedures.

(2) The Office of the Petroleum Storage Tank Environmental Assurance Fund 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 September 28, 2000, at 1 p.m., at 911 Leawood Drive, Frankfort, Kentucky.

(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 people, or an administrative body or 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 the 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 September 28, 2000, the public hearing will be canceled.

(5) Persons wishing to request a public hearing should mail their written request to the following address: James M. Ellerbe, Legal Counsel, 911 Leawood Drive, Frankfort, Kentucky 40601, telephone (502) 564-5981, facsimile (502) 564-0094.

(b) 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 Office of the Petroleum Storage Tank Environmental Assurance Fund 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 payment of claims is KRS 224.60-140(18).

(b) The administrative regulation that the Office of the Petroleum Storage Tank Environmental Assurance Fund intends to promulgate will amend 415 KAR 1:080. The amendment will incorporate by reference certain standard affidavit and waiver forms to be used by persons filing claims for reimbursement with the agency, and will provide for an effective date after which these forms must be used.

(c) The necessity and function of the proposed amended administrative regulation is as follows: The standard affidavit and waiver forms are specifically required by SB 21 (2000), which added a new KRS 224.60-140(18).

(d) The benefits expected from the administrative regulation are to ensure that vendors or subcontractors whose invoices comprise a part of a claim for reimbursement have been paid prior to the filling of that claim with the agency, unless they specifically waive that right.
August 14, 2000

(1) 501 KAR 6:050, Luther Luckett 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 September 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 September 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) 564-2234, 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.
(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 136.035 and 137.020.
(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:050, as follows:
1. Operation of State- and Staff-Owned Vehicles (LLCC 03-02-04) shall be added to define the use and care of state- and staff-owned vehicles. This policy also conforms to KRS Chapter 13A.
2. Institutional Emergency Preparedness Plan (LLCC 08-01-01) shall be added to ensure staff training. This policy also conforms to KRS Chapter 13A.
3. Control of Caustic, Toxic, Flammable, Hazardous and Other Chemicals (LLCC 08-02-01) shall be added to assure safe, economical and secure usage of these products by staff and inmates. This policy conforms to KRS Chapter 13A.
4. Emergency Squad: Selection, Training and Evaluation (LLCC 08-03-01) shall be added to notify staff of the criteria and training necessary to become a member of the emergency squad. This policy conforms to KRS Chapter 13A.
5. Development of Institutional Post Orders (LLCC 09-01-01) shall be added to ensure all staff shall be provided with clear and concise direction to their duties. This policy conforms to KRS Chapter 13A.
6. Interaction of LLCC and the Kentucky Correctional Psychiatric Center (LLCC 09-05-01) shall be added to aid in the security and control of both institutions. This policy conforms to KRS Chapter 13A.
7. Restricted Areas (LLCC 09-10-01) shall be added to notify staff and inmates of the 5 classes of restricted access areas.
8. Guidelines for Contractors (LLCC 09-14-02) shall be added to notify outside contractors of the requirements and rules while working on state property. This policy conforms to KRS Chapter 13A.
9. Search Plan (LLCC 09-18-01) shall be added to notify staff and inmates of the type of search and procedures for conducting a search. This policy conforms to KRS Chapter 13A.
10. Contraband Control: Collection, Preservation, and Identification of Physical Evidence (LLCC 09-18-03) shall be added to notify staff and inmates of procedures necessary to comply with legal and Department of Corrections requirements. This policy conforms to KRS Chapter 13A.
11. Tool and equipment Control (LLCC 09-20-03) shall be added to govern the control and use of tools, culinary and medical equipment. This policy conforms to KRS Chapter 13A.
12. Procedure for Prohibiting Inmate Authority Over Other Inmates (LLCC 09-26-01) shall be added to notify staff and inmates to comply with this procedure. This policy conforms to KRS Chapter 13A.
13. Inmate Death (LLCC 09-29-01) shall be added to notify staff of the responsibilities related to this situation. This policy conforms to KRS Chapter 13A.
14. Substance Abuse and Chemical Dependency Program (LLCC 13-19-01) shall be added to outline the procedures and responsibilities of this new program. This policy conforms to KRS Chapter 13A.
15. Inmate, Visiting Disciplinary Segregation, Protective Custody (LLCC 18-03-03) shall be deleted based on similar language in LLCC 16-02-03.
16. On-the-Job Training Job Assignments (LLCC 19-01-01) shall be deleted based on procedural changes in this area.
17. Job Assignments and Dismissals (LLCC 19-01-02) shall be added to outline inmate responsibilities relating to job assignments and dismissals. This policy conforms to KRS Chapter 13A.
18. Unassigned Status (LLCC 19-01-03) shall be added to encourage all inmates to work or participate in approved program. This policy conforms to KRS Chapter 13A.
19. Inmate Canteen (LLCC 20-04-01) shall be deleted due to policy being recreated in LLCC 02-01-03.
(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 Luther Luckett 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 proce-
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

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

August 14, 2000
(1) 501 KAR 6:060, Northpoint Training Center.
(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 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 September 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.";
      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 6:060, as follows:
   1. Inmate Accounts (NTC 02-12-01) shall be amended to make changes to the accounting procedures for accepting personal funds for inmates.
   2. Special Management Unit (NTC 10-01-01) shall be amended to make minor language changes and update the inmate activity log.
   3. Personal Hygiene for Inmates; Clothing and Linens (NTC 12-02-01) shall be amended to update the linen exchange schedule.
   4. Sick Call and Pill Call (NTC 13-03-01) shall be amended to add the distribution of medication for inmates in segregation and updating language concerning psychotropic medication-Parenteral medication.
   5. Utilization of Pharmaceutical Products (NTC 13-04-01) shall be amended to update minor language changes.
   6. Medical and Dental Records (NTC 13-08-01) shall be amended to update minor language changes.
   7. Inmate Health Screening and Evaluation (NTC 13-11-01) shall be amended to update the process of screening inmates which are transferred to the institution.
   8. Special Health Care Programs (NTC 13-12-01) shall be amended to update the procedure for an inmate to obtain a medical alert card.
   9. Inmate Work Programs (NTC 19-01-01) shall be amended to update minor language changes.
   10. Educational Programs (NTC 20-01-01) shall be amended to change Workforce Development Cabinet to Kentucky Community and Technical College System, as well as to address a special needs inmate.
   11. Live Work Projects in Vocational School Classes (NTC 20-02-02) shall be amended to change Workforce Development Cabinet to Kentucky Community and Technical College System, as well as to make minor language changes.
(c) The necessity and function of the proposed administrative regulation is as follows:
   1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.
   2. This administrative regulation updates operating procedures at the Northpoint Training Center to comply with KRS Chapter 13A and to reflect current operating procedures.
(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.
(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

July 27, 2000
(2) The Justice Cabinet, Sex Offender Risk Advisory Board, intends to promulgate an administrative regulation to establish minimum requirements for treatment of sex offenders.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky.
(4)(a) The public hearing shall 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 September 21, 2000, the public hearing shall 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."
      2. "I shall 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 administra-
VOLUME 27, NUMBER 3 — SEPTEMBER 1, 2000

tive 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 17.554 and 17.564.
(b) The administrative regulation that the Sex Offender Risk Assessment Advisory Board intends to promulgate shall establish 501 KAR 6:220, as follows: The Sex Offender Risk Advisory Board shall establish minimum requirements for treatment of sex offenders
(c) The necessity and function of the proposed administrative regulation is as follows:
1. KRS 17.564 authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish the minimum requirements for treatment of sex offenders.
2. This administrative regulation shall assure the quality of this treatment.
(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to establish procedures to implement new statutory requirements.
(e) This administrative regulation shall be implemented as follows: Providers shall be instructed in the proper standards and procedures in order to conduct sex offender treatment.

August 14, 2000

1. 501 KAR 6:999, Department of Corrections secured policies and procedures.
(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.
(3) There shall be no public hearing on these regulations as they relate to secured policies under the provisions of KRS 197.025 which states that these policies shall not be accessible to the public or inmates.
(4) Information relating to these proposed administrative regulations:
(a) The statutory authority for the promulgation of these administrative regulations relating to the subject matter of these administrative regulations is KRS 196.035, 197.020, and 197.025.
(b) The administrative regulations that the Department of Corrections intends to promulgate shall delete secured policy from existing administrative regulation and establish 501 KAR 6:999, as follows:
1. Searches and Preservation of Evidence (KSP 09-08-01) shall be amended to specify a wallstand officer for keeping up with movement of vehicles in and out of Kentucky State Penitentiary and to clarify procedures for storage of physical evidence to complete proper chain of custody.
2. Priority Posts Assignments for Daily Operation (LLCC 09-01-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
3. Emergency Security Posts Coverage (LLCC 09-01-03) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
4. Central Control Center Operating Procedure (Entry Into Institutional Compound) (LLCC 09-06-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
5. Central Control Count Documentation (LLCC 09-06-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
6. Count Procedure (LLCC 09-07-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
7. Count Documentation (LLCC 09-07-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex Notice of Intent to Promulgate Administrative Regulations.
8. Regulation of Inmate Movement (LLCC 09-06-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
9. Unit Security and Emergency Procedure (LLCC 09-08-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
10. Transportation of Inmates - Entry and Exit Procedures (LLCC 09-09-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
11. Entry and Exit Control (LLCC 09-09-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
12. Standards for Maintaining Perimeter Security (LLCC 09-11-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
13. Perimeter Towers and Box #1 (LLCC 09-11-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
14. Perimeter Patrol Officer (LLCC 09-11-03) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
15. Outside Detail (LLCC 09-11-04) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
16. Monitoring Staff and Visitors with the Computer System (LLCC 09-12-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
17. Outside Hospitals and University of Louisville Hospital Security (LLCC 09-13-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
18. Security Procedures for Print Shop (LLCC 09-14-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
19. Emergency Red Light Response (LLCC 09-15-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
20. Response Units (LLCC 09-15-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
21. Escape Plan (LLCC 09-16-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
22. Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power (LLCC 09-17-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
23. Radio Transmission Signal 10 Code Listing (LLCC 09-18-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

24. Procedure for Monitoring of Inmate Telephone Calls (LLCC 09-18-04) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.

25. Weapons and Related Security Device Control (LLCC 09-20-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.

26. Key Control (LLCC 09-20-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.

27. Use of Protectotej Model #5 - Tear Gas Ejector (LLCC 09-20-07) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.

28. Use of Immobilization Control Unit or Electronic (ICE) Shield, Electronic Belt and Taser Gun (LLCC 09-21-02) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.

29. Forced Cell Entry in a Housing Unit or Special Management Unit (SMU) (LLCC 09-21-03) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.

30. Use of Restraints (LLCC 09-22-01) is a new policy which applies to security measures and confidential operation of the Luther Luckett Correctional Complex.

(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 Correctional to comply with KRS Chapter 13A and to reflect current operating procedures.

3. KRS 197.025(5) provides: "The policies and procedures of administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for these policies and procedures shall be conducted in closed sessions."

(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 shall comply with operational procedures and standards noted in policy changes.

August 14, 2000

(1) 501 KAR 15:010, Definitions for death benefit claims.

(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 September 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 September 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) 564-2824, 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.

(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 establish 501 KAR 15:010, as follows: This is a new regulation which provides the definitions of terms utilized in 501 KAR Chapter 15.

(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.

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 this regulation.

August 14, 2000

(1) 501 KAR 15:020, Procedures for filing and processing death benefit claims.

(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 September 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
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

10 days prior to September 21, 2000, the public hearing will be canceled.

(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.

(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 establish 501 KAR 15:020, as follows: This is a new regulation which sets forth the criteria for eligibility and for the filing and processing of death benefits for Corrections employees who die in the line of duty.

(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.

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 this regulation.

TRANSPORTATION CABINET

August 15, 2000

(1) 501 KAR 2:030, Ignition interlock devices and the surrendering of license plates.

(2) The Kentucky Transportation Cabinet intends to promulgate a new administrative regulation regarding the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 2000, 10 a.m., local prevailing time, 501 High Street, Training Rooms A and B, 1st Floor, 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 September 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should contact Charlie Harman at: phone (502) 564-7650, fax (502) 564-5238, or e-mail charman@mail.ky.state.ky.us. A written request may be mailed to the Transportation Cabinet, Office of General Counsel and Legislative Affairs, 10th Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622.

(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 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 ignition interlock devices and the surrendering of license plates is 2000 Ky. Acts ch. 467.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will create a new regulation.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 467 authorizes the Transportation Cabinet to promulgate an administrative regulation governing ignition interlock devices and the surrendering of license plates. This administrative regulation will establish procedures the Transportation Cabinet will follow to implement and administer the program.

(d) The benefits expected from the administrative regulation are to provide procedures for the Transportation Cabinet to implement this driving under the influence program.

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

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

KENTUCKY BOARD OF EDUCATION

August 4, 2000

(1) 702 KAR 1:150, Employment of retired teachers in critical shortage areas.

(2) The Kentucky Board of Education intends to amend an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 22, 2000, at 10 a.m. in the State Board Room, 1st Floor, Capitol Plaza Tower, 500 Merce Street, Frankfort, Kentucky 40601.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 22, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Kevin Noland, Office of Legal Services, Kentucky Department of Education, 500 Merino Street, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, fax (502) 564-9321, phone (502) 564-4474.

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the amendment of an administrative regulation relating to the subject matter of this administrative regulation is the KRS 156.160 and 2000 HB 519.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate will amend an existing regulation.

(c) The necessity and function of the proposed administrative regulation is to establish procedures that local school districts will follow to request approval of the Commissioner of Education to employ retired teachers and/or administrators.

(d) The benefit expected from the administrative regulation is that local school districts will be able to employ qualified retired teachers and/or administrators to fill positions that are deemed critical and for which no qualified applicants are available.

(e) The administrative regulation will be implemented as follows: Information about the provisions of the amended regulation will be distributed to each local school district.

August 4, 2000

(1) 702 KAR 7:125, Pupil attendance.

(2) The Kentucky Board of Education intends to amend an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 22, 2000, at 10:00 a.m. in the State Board Room, 1st Floor, Capital Plaza Tower, 500 Merino Street, Frankfort, Kentucky 40601, fax (502) 564-9321, phone (502) 564-4474.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 22, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Kevin Noland, Office of Legal Services, Kentucky Department of Education, 500 Merino Street, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, fax (502) 564-9321, phone (502) 564-4474.

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the amendment of an administrative regulation relating to the subject matter of this administrative regulation is the KRS 156.160 and 2000 HB 519.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate will amend an existing regulation.

(c) The necessity and function of the proposed administrative regulation is to establish procedures that local school districts will follow to request approval of the Commissioner of Education to employ retired teachers and/or administrators.

(d) The benefit expected from the administrative regulation is that local school districts will be able to employ qualified retired teachers and/or administrators to fill positions that are deemed critical and for which no qualified applicants are available.

(e) The administrative regulation will be implemented as follows: Information about the provisions of the amended regulation will be distributed to each local school district.

August 1, 2000

(1) 704 KAR 3:490, Teachers' professional growth fund.

(2) The Kentucky Board of Education 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 September 22, 2000, 10:00 a.m. in the State Board Room, 1st Floor, Capital Plaza, 500 Merino Street, Frankfort, Kentucky 40601.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 22, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Mr. Kevin Noland, General Counsel, Office of Legal Services, Kentucky Department of Education, 500 Merino Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

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

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

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

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority is 2000 Ky. Acts ch. 527, sec. 2, KRS 156.070.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 704 KAR 8:495E.

(c) The necessity, function, and conformity of the proposed administrative regulation is 2000 Ky. Acts Ch. 527, sec. 2, as established by the 2000 General Assembly, establishes the application and approval process for distribution of funds, and the number and kind of approved programs and courses for which applicants may receive funds.

(d) The benefits expected from this administrative regulation are the establishment of professional development funds for distribution to middle school teachers of mathematics beginning in the 2000-01 school year.

(e) The administrative regulation will be implemented by informing middle school math teachers about the fund and the process for use of the Fund.

August 4, 2000

(1) 704 KAR 4:020, School health services.

(2) The Kentucky Board of Education intends to amend an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 22, 2000, at 10 a.m. in the State Board Room, 1st Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 22, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Kevin Noland, Office of Legal Services, Kentucky Department of Education, 500 Mero Street, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, fax (502) 564-9321, phone (502) 564-4474.

(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 the administrative body.

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

(e) Information relating to the proposed administrative regulation.:

(a) The statutory authority for the amendment of an administrative regulation relating to the subject matter of this administrative regulation is the KRS 156.160 and 2000 HB 706.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate will amend an existing regulation.

(c) The necessity and function of the proposed administrative regulation is to adopt amendments governing medical inspection, and other rules and regulations deemed necessary or advisable for the physical health, safety, and welfare of public school children.

(d) The benefits expected from the administrative regulation are improved student health, reduction of health problems, and improved attendance.

(e) The administrative regulation will be implemented as follows: Information about the provisions of the amended regulation will be distributed to each local school district.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance

July 31, 2000

(1) 806 KAR 49:020, Captive insurer application 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 September 21, 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 September 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: Julie Mix McPeak, 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."

(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 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. 434, secs. 2(3) and 14.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will specify the procedure and requirements for a captive insurer's application to the Department of Insurance requesting a certificate of authority.

(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. 2000 Ky. Acts ch. 434, sec. 14 authorizes the commissioner of insurance to establish and amend administrative regulations related to captive insurance companies as necessary to effectuate the provisions of KRS 304.49. 2000 Ky. Acts ch. 434, sec. 2(3) authorizes the commissioner of insurance to promulgate administrative regulations concerning the application for a certificate of authority for captive insurers.
VOLUME 27, NUMBER 3 — SEPTEMBER 1, 2000

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will specify application requirements the commissioner deems necessary for the authorization of captive insurers.

This regulation will prescribe the manner and form to be used by an entity seeking a certificate of authority as a captive insurer from the Department of Insurance and specify the manner a certificate of authority might be revoked.

July 31, 2000

(1) 806 KAR 49:030, Captive insurer reporting 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 September 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 September 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: Julie Mix McPeak, 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 2000 Ky. Acts ch. 434, secs. 7(2) and 14.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will specify the financial and reporting requirements for captive insurers to the Department of Insurance.

(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. 2000 Ky. Acts ch. 434, sec. 14 authorizes the Commissioner of Insurance to establish and amend administrative regulations related to captive insurance companies as necessary to effectuate the provisions of KRS 304.49. 2000 Ky. Acts ch. 434, sec. 7(2) requires the Commissioner of Insurance to promulgate administrative regulations concerning the reporting requirements applicable to captive insurers.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will specify financial and reporting requirements the Commissioner deems necessary for the regulation of captive insurers.

(e) The administrative regulation will be implemented as follows: 2000 Ky. Acts ch. 434 creates a certificate of authority for captive insurers.

This regulation will prescribe the manner and form of a captive insurer's required reports to the Department of Insurance.

July 31, 2000

(1) 806 KAR 49:040, Captive insurer parents, affiliates and conflicts of interest.

(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 September 21, 2000, at 11 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 September 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: Julie Mix McPeak, 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 2000 Ky. Acts ch. 434, secs. 14 and 17.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will specify the required control of risk management functions for a pure captive insurer's parent and affiliates. This regulation will also prescribe the manner of reporting affiliations of officers and directors and adopting conflicts of interest statements by all captive insurers.

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. 2000 Ky. Acts ch. 434, sec. 14 authorizes the Commissioner of Insurance to establish and amend administrative regulations related to captive insurance companies as necessary to effectuate the provisions of KRS 304.49. 2000 Ky. Acts ch. 434, sec. 17 requires the Commissioner of Insurance to promulgate administrative regulations concerning the control of risk management functions of a parent or affiliate by pure captive insurers.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will specify the manner a pure captive insurer shall control the risk management functions of a parent or affiliate. The regulation will also require disclosure of officers' and directors' affiliations and prescribe the adoption of conflict of interest statements by all captive insurers.

(e) The administrative regulation will be implemented as follows: 2000 Ky. Acts ch. 434 creates a certificate of authority for captive insurers.

- 684 -
This regulation will prescribe the required control of risk management functions a pure captive insurer must implement and maintain regarding parent and affiliated companies. This regulation will also prescribe the manner of reporting affiliations of officers and directors and adopting conflicts of interest statements.

**Department of Housing, Buildings and Construction**

August 1, 2000

1. **815 KAR 8:010;** Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.

2. The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Tuesday, September 26, 2000, at 10 a.m., EDT, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

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

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

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

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

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

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

   (c) Information relating to the proposed administrative regulation:

   (a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.

   (b) The department intends to amend the regulation as follows:

   1. Section 6 of this administrative regulation to change the license renewal date from June 30 to annually prior to the expiration date of the license.

   2. LRC staff review amendments have been incorporated in this submittal to comply with statutory language.

6. The necessity and function of the proposed administrative regulation is as follows: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations to coordinate and administer the HVAC Act requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) contracting to be licensed. This amendment complies with requirements of House Bill 561 enacted in the 2000 General Assembly.

7. (a) The benefits expected from this administrative regulation are: To make the administration of the HVAC Program more efficient by allowing the flexibility to stagger the license renewal annually.

   (b) This administrative regulation will be implemented by the Division of Heating, Ventilation and Air Conditioning Contractors.

August 1, 2000

1. **815 KAR 8:020;** Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

2. The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Tuesday, September 26, 2000, at 10 a.m., EDT, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

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

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

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

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

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

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

   (c) Information relating to the proposed administrative regulation:

   (a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.

   (b) The department intends to amend the regulation as follows:

   1. Section 6 of this administrative regulation to change the license renewal date from June 30 to annually prior to the expiration date of the license.

   2. LRC staff review amendments have been incorporated in this submittal to comply with statutory language.

6. The necessity and function of the proposed administrative regulation is as follows: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) installation and repair to be licensed. This amendment is necessary to comply with the requirements of House Bill 561 enacted in the 2000 General Assembly.

7. (a) The benefits expected from this administrative regulation are: To make the administration of the HVAC Program more efficient by allowing...
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

the flexibility to stagger the license renewal annually.
(e) This administrative regulation will be implemented by the Division of Heating, Ventilation.

August 15, 2000
(1) 815 KAR 20:020; Parts or materials list.
(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., EDT, on Tuesday, September 26, 2000, in the Department’s Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.
(4) (a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons or an administrative body or an association having at least 5 members; and
2. A minimum of 5 persons or the administrative body or association agrees, in writing, to be present at the public hearing.
(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to September 26, 2000, the public hearing will be canceled.
(5) (a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-3833.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
(6) (a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Department’s General Counsel at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of this administrative regulation is KRS 318.130.
(b) The Department intends to amend Section 5 of this administrative regulation to include a new product approved by the State Plumbing Code Committee; a Watts Regulator BRV Expansion Relief Valve to relieve thermal expansion.
(c) The necessity and function of the proposed administrative regulation is as follows: The function of this administrative regulation is to allow the department to promptly permit the use of new parts or materials.
(d) The benefits expected from this administrative regulation are: To allow the use of newly approved products.
(e) This administrative regulation will be implemented by state plumbing inspectors.

CABINET FOR HEALTH SERVICES
Department for Public Health

August 15, 2000
(1) 902 KAR 8:040, Definition of terms in 902 KAR Chapter 8.
(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 September 29, 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 September 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: Jill Lewis, 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 (VT/TTY).
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to definitions for administrative regulations under Chapter 8 are KRS Chapter 194A.050 and 211.1755. This administrative regulation and proposed amendments apply to all local health departments except the Louisville-Jefferson County Health Department, Lexington-Fayette County Health Department, and the Northern Kentucky District. The latter 3 health department have separate statutory authority for their personnel program.
(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 8:040. The definition of "excessive absences" and "register" are being amended to provide a clearer statement of how each term is applied.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth definitions of specific personnel related terms for administrative regulations 902 KAR 8:060 through 902 KAR 8:140.
(d) The benefits expected from administrative regulation are to establish clear and consistent definitions of personnel terms applicable for administrative regulations 902 KAR 8:060 through 902 KAR 8:104.

- 686 -
(e) The administrative regulation will be implemented as follows: Used by Department for Public Health staff to interpret administrative regulations and to distribute copies of the administrative regulation to local health departments by the Division of Local Health Department Operations, Department for Public Health, Cabinet for Health Services.

August 15, 2000

(1) 902 KAR 8:060, Classification and compensation plans for local health departments of Kentucky.
(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 September 29, 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 September 29, 2000, the public hearing will be canceled:

(a) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General 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 from the Administrative Regulation Coordinator, Department for Public Health, Health Services 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 American 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 related to 902 KAR 8:060 are KRS 194A.050 and 211.1755. The proposed amendments would apply to all local health departments except the Louisville - Jefferson County Health Department, the Lexington - Fayette County Health Department, and the Northern Kentucky District Health Department. The latter 3 health departments have separate statutory authority for their personnel program.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 060. The proposed amendment provides for an employee to be eligible for an educational step increase in salary of 5% if certain criteria are met. In addition, the proposed amendments require that an employee receiving retirement benefits under a Kentucky Retirement System must be considered as an initial appointment upon employment in a local health department.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the classification and compensation plans for local health departments. The proposed amendment provides for an employee to be eligible for an educational step increase in salary of 5% if certain criteria are met. In addition, the proposed amendments require that an employee receiving retirement benefits under a Kentucky Retirement System must be considered as an initial appointment upon employment in a local health department. The financial impact will depend on the number of employees that would be eligible for the educational step increase. A copy of the proposed amendments were distributed to all local health departments, followed by regional meetings, to discuss. Favorable comments were received relating to the proposed amendments.

(d) The benefits expected from administrative regulation are to provide an incentive for an employee to seek additional job related educational opportunities or be rewarded for past efforts that have increased the employee's competencies to carry out the specific job duties and responsibilities.

(e) The administrative regulation will be implemented as follows: Communicate the amendments to local health department through the statewide computer system and training program(s) for supervisors by the Division of Local Health Department Operations, Department for Public Health, Cabinet for Health Services.

August 15, 2000

(1) 902 KAR 8:070, Recruitment, examination, and certification of eligibles for local health departments of Kentucky.
(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 September 29, 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 September 29, 2000, the public hearing will be canceled:

(a) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General 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."

(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
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.
   (a) The statutory authority for the promulgation of an administrative regulation relating to recruitment and examinations are KRS 194A.050 and 211.1755. The proposed amendments would apply to all local health departments, except the Louisville-Jefferson County Health Department, the Lexington-Fayette County Health Department and the Northern, Kentucky District Health Department. The latter 3 health departments have separate statutory authority for their personnel program.
   (b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 8:070. The proposed amendments will allow a local health department to recruit internally for a qualified candidate for a vacant position before external activities.
   (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes procedures and standards for the recruitment, examination, and certification of individuals for potential employment with a local health department. The proposed amendments will make it possible for a local health department to recruit within the agency before announcing the vacant position through normal recruitment channels.
   (d) The benefits expected from administrative regulation are the local health department will be able to recruit internally to the agency prior to an open announcement being published in the newspaper. This will provide a greater opportunity for career advancement.
   (e) The administrative regulation will be implemented as follows: The primary mechanism will be to distribute copies of the regulation to the local health departments and provide an explanation to supervisors and directors at training meetings conducted by the Division of Local Health Department Operations, Department for Public Health, Cabinet for Health Services.

August 15, 2000

(1) 902 KAR 8:080, Initial appointment, probationary period, layoffs, performance evaluation, and the resignation of employees of local health departments.
   (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 September 29, 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 September 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: Jill Lewis, 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."
       2. "I will not attend the public hearing."
   (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
   (b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.
   (c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services’ regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.
   (a) The statutory authority for the promulgation of an administrative regulation relating to 902 KAR 8:080 is KRS 194A.050 and 211.1755
   (b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 8:080. The proposed amendments provide for a former employee that has retired, to be employed only as an initial appointment if the employee is receiving retirement benefits. Also an employee may be reinstated without serving a probationary period if the absence does not exceed 1 year of time. If the absence is greater than 1 year time but less than 3 years the employee would be required to serve an initial probationary period.
   (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth policies and procedures for the local health department personnel program relating to employment categories, permissible appointments, initial probationary period upon appointment, and the employee evaluation process.
   (d) The benefits expected from administrative regulation are: The proposed amendment relates to dismissing an employee during probation and clarifies that the employee would not have the right to appeal and also changes to 7 days advance notice for dismissal unless there is a serious conduct or performance problem. An employee reinstated after a break in service of 1 year will be required to serve an initial probationary period.
   (e) The administrative regulation will be implemented as follows: Distribution of the administrative regulations to local health departments, and conducting regional training programs by the Division of Local Health Department Operations, Department for Public Health, Cabinet for Health Services.

August 15, 2000

(1) 902 KAR 8:090, Promotion, transfer, and demotion of local health department employees.
   (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 September 29, 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
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

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 September 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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 584-7905, (502) 584-7573 (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 902 KAR 8:090 is KRS 194A.050 and 211.1755

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 8:090. The proposed amendments provide for a more equitable salary adjustment for a promotion or demotion. If an employee is promoted to a position with a 1 or 2 grade increase the salary adjustment would be 5%. If the promotion results in a change in grade of 3 or more grades the salary adjustment would be 3% for each grade. A copy of the proposed amendment was distributed to each health department as well as 7 regional training programs for discussing amendments to the administrative regulations. Favorable comments were received regarding the proposed amendments.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth policies and procedures for the local health department personnel program. This administrative regulation describes the provisions and requirements for promotions, transfers, and demotions of local health department employees.

(d) The benefits expected from administrative regulation are: The primary benefit is to establish an equal salary adjustment for both a promotion and demotion of 5% if the action changes the employee’s grade 1 or 2 levels and 3% if the grade changes 3 or more levels.

(e) The administrative regulation will be implemented as follows: The proposed amendments relate to local health departments. The implementation will be primarily through dissemination of the administrative regulation and training program(s) for health department directors and supervisory staff by the Division of Local Health Department Operations, Department for Public Health, Cabinet for Health Services.

August 15, 2000

(1) 902 KAR 8:100, Disciplinary procedures applicable for local health department employees.

(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 September 29, 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 September 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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 584-7905, (502) 584-7573 (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 902 KAR 8:100 are KRS 194A.050 and 211.1755

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 8:100. The primary amendment is to add an additional example of a behavior or performance problem that may lead to disciplinary action. The addition relates to the performance of a duty or task by an employee that requires special training, licensure, or certification for which the employee has not attained.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth progressive disciplinary procedures for local health departments to use should such action be necessary for behavioral or performance problems with an employee.

(d) The benefits expected from administrative regulation are to provide a due process for local health departments to use should it be necessary to discipline an employee. The disciplinary approach is to apply progressive discipline as a method to correct performance issues. The proposed amendments add further examples of situations that may cause an appointing authority to initiate disciplinary action.

(e) The administrative regulation will be implemented as follows: The primary mechanism of implementation is to distribute the administrative regulation to the local health departments followed by training program(s) for supervisors and directors conducted by the Division of Local Health Department Operations, Department for Public Health, Cabinet for Health Services.
(1) 902 KAR 8:120, Leave provisions applicable to employees of local health departments.
(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 September 29, 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) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons; or
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(5) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, 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).
1. "I agree to attend the public hearing."
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 Administrative Regulation Coordinator, Department for Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.
(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services’ regulations may call toll free 1-800-372-2973 (V/TDD).
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to 902 KAR 8:102 is KRS 194A.050 and 211.1755.
(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 8:120 to provide:
1. Additional sick leave for full-time and part-time employees that have 20 years of service;
2. Allowing the appointing authority to require an employee to use accumulated compensatory leave instead of annual leave;
3. Conditions for workers’ compensation benefits; and
4. Absences due to inclement weather.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth various leave provisions for local health department employees. The leave provisions include the earning and utilization of annual and sick leave which are considered benefits.
(d) The benefits expected from administrative regulation are to establish consistent leave policies and provisions for local health department employees.
(e) The administrative regulation will be implemented as follows: Distribution of the administrative regulations to local health departments, and conducting regional training programs by the Division of Local Health Department Operations, Department for Public Health, Cabinet for Health Services.

July 17, 2000
(1) 902 KAR 20:008, License procedures and fee schedule.
(2) The Office of Inspector General intends to promulgate the administrative regulation cited above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 2000, at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.
(4) 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.
(5) Persons wishing to request a public hearing should mail their written request to the following address: Selina R. Riley, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, Telephone: (502) 564-7905, Fax: (502) 564-7573.
1. "I agree to attend the public hearing."
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: Administrative Regulation Coordinator, Office of Inspector General, 275 East Main Street, 4E-A, Frankfort, Kentucky 40621.
(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services regulations may call toll free 1-800-372-2973 (V/TDD).
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of administrative regulations relating to health facilities and health services is KRS 216B.042 and 216B.105.
(b) The cabinet intends to amend 902 KAR 20:008 to adjust the fee schedule; these adjustments will be based on inflation rates since the last revision. The regulation will be amended to allow for annual adjustments to the fee schedule based on the average yearly inflation rates published in the Consumer Price Index (CPI). The regulation will also be amended to address certain levels of care that were previously not included in the regulation. This administrative regulation will also include changes to the process for filing a plan of correction by licensed health facilities and...
services. Other amendments will comply with drafting requirements of KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 216B.042(1)(a) and 216B.105 require that the Cabinet for Health Services regulate health facilities and health services. This administrative regulation establishes requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license.

(d) The benefits expected from these proposed amendments are that the adjustment to the fee schedule will allow the cabinet a level of revenue that more closely compares to the actual expense of licensing and regulating health facilities. Also, by adding levels of care not previously included, the regulation will more completely address the licensing procedures for health facilities licensed by the Office of the Inspector General, Division of Licensing and Regulation.

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

Department for Public Health

August 15, 2000

(1) 902 KAR 22:040, Charitable health care providers.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 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 September 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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7773 (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) The request 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 902 KAR 22:040 are HB 218 of the 2000 General Assembly and KRS 304.40-075.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 22:040 to reflect changes in the statute removing the $50 registration fee for charitable health care providers.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation incorporated forms to be used for charitable health care providers to register with the Cabinet for Health Services in order to be reimbursed for malpractice insurance. This amended administrative regulation will remove the $50 registration fee from the regulation as mandated by HB 218.

(d) The benefits expected from administrative regulation: Providers of charity care who desire to register with the Cabinet for Health Services will no longer be required to pay a $50 registration fee.

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

Department for Medicaid Services

August 15, 2000

(1) 807 KAR 1:145, Supports for community living services for an individual with mental retardation or a developmental disability.

(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 September 29, 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 September 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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7773 (Fax).

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

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 907 KAR 1:145, Supports for community living services for individuals with mental retardation or developmental disabilities are KRS 194A.030, 194A.050 and 205.6317.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:145 to implement a new SCL waiting list process that will conform with KRS 205.6317.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the SCL waiting list process.

(d) The benefits expected from this administrative regulation are:

1. Ensure the SCL waiting list will be served to conform with KRS 205.6317.
2. 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.

August 15, 2000

(1) 907 KAR 1:155, Payments for supports for community living services for individuals with mental retardation or developmental disabilities.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 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, 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 September 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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to payments for supports for community living services for individuals with mental retardation or developmental disabilities are KRS 194A.030, 194A.050, 205.520, and 205.6317.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:155 to implement a reimbursement payment methodology for rate setting year July 1, 2000 for the Supports for Community Living (SCL) Waiver Program to conform with KRS 205.6317.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation amends the reimbursement methodology for the SCL waiver program to comply with KRS 205.6317.

(d) The benefits expected from this administrative regulation are:

1. Ensure that SCL service providers receive adequate compensation for the provision of services;
2. Ensure program participants continue to receive a high quality of care;

(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.

August 15, 2000

(1) 907 KAR 1:170, Payments for home and community based waivers 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 September 29, 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 September 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: 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."

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

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

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

7. Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to payments for home and community based (HCB) waiver services are KRS 194A.030, 194A.050, and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:170, by establishing a fee-for-service reimbursement methodology for adult day health care (ADHC) services and by establishing a reimbursement rate for individuals meeting the criteria for being developmentally disabled (DD).

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation amends the reimbursement methodology for ADHC services providers.

(d) The benefits expected from this administrative regulation are: ADHC service providers will be reimbursed under a more beneficial methodology.

(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 7, 2000

1. 907 KAR 3:030, Coverage and payments for IMPACT Plus 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 September 29, 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 September 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: 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 (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 Impact Plus services are KRS 194A.030 and 194A.050.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 3:030 to establish criteria for determining "at risk of institutionalization" and criteria for determining when a recipient is no longer eligible for IMPACT Plus services. It will require a medical necessity determination for requested services. It expands service-planning requirements, identifies additional requirements for service coverage, expands service definitions and service provision requirements, prohibits provision of services by specified groups, increases medical records requirements, increases reporting requirements and requires establishment of quality improvement programs by providers and subcontractors.

(c) The necessity, function and conformity of the proposed administrative regulation are as follows: The amended regulation is necessary to provide uniform access to medically necessary services to the targeted population. It also provides the Department for Medicaid Services the necessary tools for monitoring services and to assure delivery of quality services to the targeted population.

(d) The benefits expected from this administrative regulation are: Continued implementation and refinement of the IMPACT Plus Program, a program that provides targeted case management and rehabilitative services to Medicaid-eligible children who are institutionalized or are at risk of institutionalization. The regulation will assist in providing for uniform access to medically necessary IMPACT Plus services by providing criteria for determining eligibility for IMPACT Plus services and by requiring a medical necessity determination for provision of services. Other expected benefits include improved oversight capability, increased service quality, improved documentation of services, and establishment of outcomes measurement program.

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

August 15, 2000

1. 908 KAR 1:315, Certification standards and administrative procedures for .2 underage offender programs.

2. The Department for Mental Health and Mental Retardation Services intends to promulgate an administrative regulation to define certifica-
tion standards and procedures for assessment, treatment and education programs for persons violating KRS 189A.010, Section 2(1)(e). That provision makes it unlawful for a person under the age of 21 whom has an alcohol concentration of .02 or more as measured by a blood or breath test to operate or be in physical control of a motor vehicle.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 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 prior to September 19, 2000, at least 10 days prior to September 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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7753 (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."

(g)(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 Drive, (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 (V/TDD).

7. Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation governing establishing standards are KRS 189A.040 and 222.211. KRS 189A.040 authorizes the Cabinet for Health Services to promulgate administrative regulations establishing licensure standards for education and treatment facilities and programs for offenders receiving education or treatment. KRS 222.211 authorizes the Cabinet for Health Services to promulgate administrative regulations establishing standards for facilities and programs providing alcohol and drug services.

(b) The administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will define standards for specialized services assessment, prevention, education and other services that are appropriate for persons under 21 years of age who have violated KRS 189A.010, Section 2(1)(e). This administrative regulation will also establish requirements for governance, operation and staffing of programs.

(c) The necessity and function of the administrative regulation is as follows: Young people who have violated the lawful minimum drinking age but were not driving with a sufficient alcohol concentration to be charged with driving under the influence differ from the D.U.I. offender population and require a different programmatic response. These individuals should also receive age appropriate services. This administrative regulation is necessary to assure that those individuals receive services that are appropriate to their age and the offense.

(d) The benefits expected from this administrative regulation are: Standards for the operation of underage .02 offender programs will assure that the population will receive the most effective age appropriate service. A significant portion of this population is not diagnosed with a substance-related disorder and is in need of preventive interventions thus avoiding higher cost clinical services.

(e) The administrative regulation will be implemented as follows: By the Department for Mental Health and Mental Retardation Service, Cabinet for Health Services.

August 15, 2000

(1) 908 KAR 3:050. Per diem rate pursuant to the Patient Liability Act of 1978.

(2) The Department for Mental Health/Mental Retardation Services intends to promulgate an amendment to 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 September 29, 2000 at 9 a.m. in the Department for Public Health Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
1. It is requested in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons or the administrative body, or association, 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 September 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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7753 (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."

(g)(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/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 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation related to charge rates for state psychiatric hospitals is KRS 210.720 (2).

(b) The administrative regulation that the Department for Mental Health/Mental Retardation Services intends to promulgate will fix the patient cost per day for board, maintenance and treatment at facilities controlled by the Cabinet.

(c) The necessity and function of the administrative regulation is as follows: To establish standardized rates for the patient cost per day for
board, maintenance, and treatment at psychiatric facilities controlled by the Cabinet for Health Services.

(d) The benefits expected from the amendments to this administrative regulation are: To limit the amounts deemed payable for in-patient care by all consumers within the mental health system. Setting rates in relation to cost will maximize reimbursement from all sources and offset cost to the Commonwealth.

(e) The administrative regulation will be implemented as follows: By the Department for Mental Health and Mental Retardation, Cabinet for Health Services.

VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

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

August 15, 2000
(1) 921 KAR 1:410, Child support collection and distribution.

(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 September 29, 2000, at 9 a.m. in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 1 person representing an 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 September 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: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, 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, CHF Building, 275 East Main, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.


(b) The administrative regulation that the Department for Community Based Services intends to promulgate, 921 KAR 1:410, Child support collection and distribution, will:
1. Expand the current provision for delinquent noncustodial parent participation in work activities to include educational or vocational training activities and that the participation be for a minimum of 20 hours per week;
2. Change the criteria for the denial, suspension or revocation of a license (excluding a permit to carry a concealed, deadly weapon) from the child support arrearage equals or exceeds the amount owed for 1 year to the child support arrearage equals or exceeds the amount owed for 6 months;
3. Create standards regarding the cabinet's requirement to provide a list of delinquent obligors to the Office of the Attorney General;
4. Create requirements regarding the cabinet's use of a quarterly tort claims listing received from the Finance and Administration Cabinet;
5. Create requirements regarding the cabinet's booting of vehicles;
6. Set standards for the publication of a delinquent payors listing;
7. Change the criteria for the Financial Institution Data Match to parallel federal intent to include delinquent obligors with no current support obligation;
8. Streamline the process for the interception of Unemployment Insurance benefits;
9. Revise collection and distribution procedures to comply with 42 USC 657; and
10. Make any other changes necessitated by SB 218 including the revision of forms.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to implement provisions of SB 218, 2000 Ky. Acts ch. 430, sec. (5), (11), (13)-(19), (19).

(d) The benefits expected from this administrative regulation are: The benefits expected from this administrative regulation are compliance with state statute, increased child support collections, greater public awareness and support of the program, and stronger enforcement remedies.

(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.

August 15, 2000
(1) 922 KAR 1:420, Child fatality or near fatality investigations.

(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 September 29, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(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 September 29, 2000, the public hearing will be canceled.

(b) Persons wishing to request a public hearing should mail their written request to the following address: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, 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."

(b) 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.

(b) 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 (TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of a new administrative regulation relating to child protection is KRS 1948.050(1), 605.150, 620.180, and 42 USC 5106a.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a new administrative regulation, 922 KAR 1:420, Child fatality or near fatality investigations. The proposed administrative regulation is necessary because this information is being removed from 922 KAR 1:330, Child protective services. This administrative regulation that the Department for Community Based Services intends to promulgate will:
1. Clarify policy regarding an investigation of a child fatality or near fatality.
2. Establish parameters for completion of a risk assessment for any remaining children within the household.
3. Establish notification requirements.
4. Allow public disclosure as a result of a child fatality or near fatality pursuant to KRS 620.050.
5. The necessity, function, and conformity of the proposed administrative regulation is as follows: The administrative regulation replaces Section 14, "Child Fatality or Near Fatality Investigations" in 922 KAR 1:330.
6. The benefits expected from this administrative regulation are: Due to the subject matter and to comply with KRS Chapter 13A requirements, we are transferring the requirements established for child fatality or near fatality investigations in 922 KAR 1:330, Section 14 to a new topical regulation 922 KAR 1:420.

(a) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.

August 15, 2000

(1) 922 KAR 1:430, Child protective services in-home case planning and service delivery.

(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 September 29, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East 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 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 September 29, 2000, the public hearing will be canceled.

(5a) Persons wishing to request a public hearing should mail their written request to the following address: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, 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."

(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.

(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 (TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of a new administrative regulation relating to child protection is KRS 1948.050(1), 605.150, 620.180, and 42 USC 5106a.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a new administrative regulation, 922 KAR 1:430, Child protective services in-home case planning and service delivery. The proposed administrative regulation is necessary because this information is being removed from 922 KAR 1:330, Child protective services. This administrative regulation that the Department for Community Based Services intends to promulgate will:
1. Establish policy for transferring a case from investigation to ongoing services.
2. Require the development and review of a case plan with the family.
3. Establish minimum contact by a worker with the family in an ongoing case and state the purpose of the contact.
4. Address assessment criteria for determination of case closure.
5. Establish criteria for aftercare services.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The administrative regulation is required to replace Section 18, "Case Planning" and Section 14, "Service Delivery"; of 922 KAR 1:330.

(d) The benefits expected from this administrative regulation are: Due to the subject matter and to comply with KRS Chapter 13A requirements, we are transferring the requirements established for child protective services case planning and service delivery in 922 KAR 1:330, Sec-
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

18 and 19 to a new topical regulation 922 KAR 1:430.

(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.

August 15, 2000

(1) 922 KAR 2:090. Child care facility licensure.

(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 September 29, 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 September 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: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 554-7900, 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, OHR 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 1-800-372-2373 (V/TTY).

(7) Information relating to the proposed amended administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to child care facility licensure is KRS 194B.050(1), 199.896(2), (4), (6).

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 2:090, Child care facility licensure. The amended administrative regulation will:

1. Add definitions as necessary for statutory compliance; and

2. Clarify that a provisional license to operate a child care center shall be issued by the Cabinet for Health Services (CHS) for a probationary period not to exceed 6 months upon completion by CHS of an initial inspection of the child care center.

3. Specify that the Cabinet for Health Services shall monitor a child care center that operates under a provisional license and require that the CHS approve the licensure application upon completion of the probationary period or deny the licensure application if violations of licensure regulations, standards, or requirements persist and may cause harm to a child.

4. Specify that approval of a provisional license or renewal of a regular license may be considered on a case-by-case basis for a child care center that employs a person who has had an incident of child abuse or neglect substantiated by the Cabinet for Families and Children prior to July 14, 2000;

5. Specify that based upon the results of a child abuse and neglect check conducted by the Cabinet for Families and Children on new employees and volunteers of child care centers, a child care center shall not employ a person for whom the Cabinet for Families and Children has substantiated an incident of child abuse or neglect after July 14, 2000;

6. Clarify that a civil penalty may be assessed if a child care center fails to correct a violation of licensure regulations, standards, or requirements;

7. Permit a child care center to challenge a citation or civil penalty at an administrative hearing;

8. Permit a child care center to challenge revocation, suspension, or denial of a license through an informal dispute resolution meeting as the first level of the appeals process; and

9. 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 licensure standards for child care facilities.

(d) The benefit expected from this administrative regulation is: The benefit from amending this administrative regulation will allow for increased monitoring by the Division of Licensing and Regulation during the first 6 months of a child care center's operation in order to ensure compliance with licensure regulations, standards, and requirements; improve the safety of children; and improve service to child care centers by permitting a center to challenge licensure revocation, suspension, or denial through an informal dispute resolution meeting as the first level of the appeals process.

(e) The administrative regulation will be implemented as follows: By the Department for Community Based Services, Cabinet for Families and Children and Office of Inspector General, Cabinet for Health Services.

August 15, 2000

(1) 922 KAR 2:100. Certification of family child care homes.

(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 September 29, 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.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(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 September 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: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, 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 (V/TTY).

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

(a) The statutory authority for the promulgation of an administrative regulation relating to certification of family child care homes is KRS 194B.050(1).

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 2:100, Certification of family child care homes. The amended administrative regulation will:
1. Amend Section 1 to add, clarify, or delete definitions as necessary;
2. Clarify criteria for denial, suspension, and revocation of certification as a family child care home provider;
3. Revise standards for the environment of a family child care home;
4. Clarify how a family child care home provider shall dispense medication;
5. Clarify nutritional requirements;
6. Prohibit the use of nonwater hand sanitizer before and after diapering a child and require that hands be washed only with soap and water;
7. Clarify the requirements necessary for recertification;
8. Require that upon application for recertification, a criminal records check shall be conducted;
9. If applicable, allow a criminal records check to be obtained by the cabinet from a family child care home applicant's former state of residence;
10. Require that a family child care home provider receive a period of respite if the provider operates more than 2 consecutive 8 hour shifts;
11. Establish guidelines for the use of substitute care;
12. Clarify the status of a family child care home provider's certification during an appeal if the certification has been revoked;
13. Require that a family child care home provider document the occurrence of a significant emotional, behavioral, or physical incident and provide such documentation to a parent or guardian;
14. Revise forms incorporated by reference; and
15. Make necessary corrections to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The certification of family child care homes administrative regulation is required by KRS 199.6982.

(d) The benefit expected from this administrative regulation is: This regulation sets forth standards intended to protect the health, safety and welfare of children.

(e) The administrative regulation will be implemented as follows: By the Department for Community Based Services, Cabinet for Families and Children.

August 15, 2000

(1) 922 KAR 2:110. Child care facility requirements.
(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 September 29, 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 September 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: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, 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 (V/TTY).

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

(a) The statutory authority for the promulgation of an administrative regulation relating to Child Care Facility Licensure is KRS 194B.050(1), 194B.065(2).

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 2:110, Child Care Facility Requirements. The amended administrative regulation will:
1. Require that a child care center not allow a new employee or new volunteer to be left alone with a child if the results of the new employee or volunteer’s criminal records check and child abuse/neglect check have not yet been received by the child care center;
2. Require that a child care center document the occurrence of a significant emotional, behavioral, or physical incident and provide such documentation to a parent or guardian;
3. Clarify that the child care center document the occurrence of a significant emotional, behavioral, or physical incident and provide such documentation to a parent or guardian;
4. Permit an agency approved by the Cabinet for Health Services to provide cardiopulmonary resuscitation (CPR) and first aid to child care center staff;
5. Require that a child care center notify the Division of Licensing and Regulation as soon as practicable and prior to a facility’s temporary or permanent closure; and
6. 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 provider requirements for child care centers;
(d) The benefit expected from this administrative regulation is: The benefit from amending this administrative regulation will be to improve the safety of children; improve communication between child care center staff and the parent or person exercising custodial control of a child; and improve communication between child care facilities and the Cabinet for Health Services.
(e) The administrative regulation will be implemented as follows: By the Department for Community Based Services, Cabinet for Families and Children and Office of Inspector General, Cabinet for Health Services.

August 15, 2000

(1) 922 KAR 2:120. Child care facility health and safety standards.
(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 September 29, 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 September 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: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, FAX: (502) 564-7573.
(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."
(b)(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 (V/TYY).
(7) Information relating to the proposed amended administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to Child Care Facility Licensure is KRS 194B.050(1), 199.696(2).
(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 2:120, Child Care Facility Health and Safety Standards. The amended administrative regulation will:
1. Clarify that refrigerated medication shall be stored in a locked container;
2. Clarify the maximum temperature permitted for a child care center during summer conditions and minimum temperature permitted for a child care center during winter conditions; and
3. 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 requirements for health and safety standards for child day care facilities.
(d) The benefit expected from this administrative regulation is: The benefit from amending this administrative regulation will be to improve the safety of children.
(e) The administrative regulation will be implemented as follows: By the Department for Community Based Services, Cabinet for Families and Children and Office of Inspector General, Cabinet for Health Services.
STATEMENT OF EMERGENCY
13 KAR 1:030E

This emergency administrative regulation is a new administrative regulation, 13 KAR 1:030 that implements the Postsecondary Education Security Act, 2000 Ky. Acts ch. 190, p. 478. This emergency administrative regulation provides campus crime reporting formats for postsecondary education institutions and details the information that institutions are to provide in daily crime logs. This administrative regulation must be enacted on an emergency basis as the state law requiring such reporting became effective in July 2000. Institutions are to file annual reports with the Council on Postsecondary Education. The first report is due August 31, 2000. The stated emergency is to meet the requirements of a state law, KRS 13A.190(3)(a) and to protect the citizens of Kentucky and the students of postsecondary education institutions by providing accurate, easily accessible information on reported crimes and incidents. The emergency administrative regulation shall be replaced by an ordinary administrative regulation. The notice of intent to promulgate an administrative regulation will be filed with the Regulations Compiler at the same time as the emergency regulation is filed.

PAUL E. PATTON, Governor
GORDON K. DAVIES, President

COUNCIL ON POSTSECONDARY EDUCATION
(Emergency)

13 KAR 1:030E. Campus security.

RELATES TO: KRS 164.945 to 164.947, 227.200, 227.230
EFFECTIVE: August 15, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Michael Minger Act, 2000 Ky. Acts ch. 190, p. 473, requires public postsecondary education institutions and those private postsecondary education institutions licensed by the Council on Postsecondary Education to report campus crimes to the students and the public and to report annually to the Council on Postsecondary Education. The council has responsibility for developing formats for reporting and for ensuring that annual reports are received from the institutions. The State Fire Marshal is granted access to the property of an institution that is covered by this Act for the purpose of inspection, investigation or any other action necessary to prevent fire loss or to determine the origin of any fire. This administrative regulation addresses the responsibilities of private postsecondary education institutions licensed by the Council on Postsecondary Education.

Section 1. Definitions. (1) "Annual report" means the report submitted by an institution to the council that satisfies the requirements of 2000 Ky. Acts ch. 190, p. 478, sec. 5.
(2) "Campus" is defined in 2000 Ky. Acts ch. 190, p. 478, sec. 1.
(3) "Campus crime log" means the daily log maintained by an institution and developed by the council consistent with the provisions of 2000 Ky. Acts ch. 190, p. 478, sec. 2.
(4) "Campus security authority" is defined in 2000 Ky. Acts ch. 190, p. 478, sec. 5.
(5) "Council" means the Council on Postsecondary Education as established by KRS 164.011.
(6) "Crime" is defined in 2000 Ky. Acts ch. 190, p. 478, sec. 1(3).
(7) "Fire marshal" means the State Fire Marshal as described in KRS Chapter 227.

Section 2. Property Included Under the Term Campus. (1) An institution shall, consistent with the provisions of 2000 Ky. Acts ch. 190, p. 478, sec. 1(1), establish a list of all property:
(a) Owned;
(b) Managed; or
(c) Controlled by an institution.
(2)(a) All property on the list shall be classified by one of the categories listed in subsection (1) of this section.
(b) The list shall be updated as necessary but not less than annually.
(3) Property controlled by an institution as set forth in 2000 Ky. Acts ch. 190, p. 478, sec. 1(1) includes real property owned by groups that are:
(a) Officially recognized by an institution; and
(b) For which the institution exercises some administrative control.
(4) The list described in this section shall be available to the Council on Postsecondary Education, if requested.

Section 3. Release of Information to the Public. (1) In satisfying the provisions of 2000 Ky. Acts ch. 190, p. 478, sec. 2(1)(b) an institution shall develop and maintain a written policy that sets forth the general conditions under which that institution may withhold information on an incident.
(2) The written policy shall be:
(a) Subject to the limitations established in 2000 Ky. Acts ch. 190, p. 478, sec. 2(1)(b)1 and 2; and
(b) Designed to ensure that information is available to the public as soon as possible.
(3)(a) An institution may archive campus crime log information after sixty (60) days have elapsed.
(b) An institution that elects to archive campus crime log information as described in paragraph (a) of this subsection, shall have two (2) business days to respond to information requests for material that has been archived.

Section 4. Special Reports. An institution shall report, in writing, to the council on how it shall comply with the provisions of 2000 Ky. Acts ch. 190, p. 478, sec. 2.


(2) Information contained in the campus crime log shall include all data elements contained in 2000 Ky. Acts ch. 190, p. 478, sec. 2(1).


Section 7. State Fire Marshal and Threat of Fire. (1) A threat of fire includes:
(a) All fire alarms except as provided in subsection (2) of this section; and
(b) An expression of an intention by a person or group of persons to inflict something harmful in the way of destructive burning or explosion.
(2) However, a threat of fire does not include an alarm triggered for the purpose of maintenance testing.
(3)(a) A threat or actual alarm shall be reported immediately to the State Fire Marshal and the local fire department except as provided in paragraph (b) of this subsection.
(b) However, an institution that has a university fire marshal and a written agreement with the State Fire Marshal's Office may inform the university fire marshal.
(4) An agreement between a local fire department and an institu-
tion for responses to a fire alarm shall be in writing.


(2) The heading for the annual report shall include:
   (a) The name of the institution;
   (b) The title of the report as set forth in subsection (1) of this section; and
   (3) The body of the report shall include these sections organized as set forth in this subsection:
      (a) Section 1 shall be titled "Section 1. Campus Security Authority" and shall include:
         1. A list of all personnel that meet the definition of Section 1(4) of this administrative regulation;
      2. A description of the extent and nature of the enforcement authority of campus security authority personnel;
      3. The working relationship of campus security authority personnel with state and local police agencies.
      (b) Section 2 shall be titled "Section 2. Description of Information Programs" and shall include:
         1. A description of programs that inform students and employees about:
            a. Campus safety and security;
            b. How to report crimes; and
            c. How to prevent crimes.
      (c) Section 3 shall be titled "Campus Crime Statistics for [DATE]" and shall include:
         1. The calendar year of the report after the word for; and
         2. The tables as follow:

<table>
<thead>
<tr>
<th>Crime Category (1)</th>
<th>Campus Property (2)</th>
<th>Criminal Attempt (3)</th>
<th>Campus Residential Facility (4)</th>
<th>Noncampus Property (5)</th>
<th>Public Property (6)</th>
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<td>Arson</td>
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Notes for Preceding Chart
1. These are the crime categories as required by the federal and state statute. Those crime categories listed in bold print are specific to the Minger Act while both statutes require all others.
2. On-campus property includes all property owned by the institution and any reports taken by institution law enforcement officers on adjacent streets.
3. Any attempt to commit the crimes listed in column one.
4. Number of crimes that occurred in institution residence halls, student apartment housing, or Greek sponsored housing facilities, if appropriate. These numbers are included in the on-campus property totals.
5. Noncampus property. These are any of the officially recognized/owned/leased/controlled institution properties that are located off the main campus area.
6. Public property within the same reasonably contiguous geographic area of the institution (sidewalk, street, other thoroughfare or parking facility) and adjacent to a facility owned or controlled by the institution. These crime statistics are those reported to/b y the (INSERT LOCAL LAW ENFORCEMENT AUTHORITY HERE), the law enforcement agency with primary jurisdiction of that area.
7. Hate crimes - These are crimes that fall into one of the reportable categories as required by the statute, or other crimes in which the victim was intentionally selected because of an actual or perceived prejudice.

Selected Arrest Statistics

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<th>Crime Category</th>
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<td>Alcohol Related</td>
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<td>Drug Related</td>
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<td>Weapon Possession</td>
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Reported Crimes - Prior Reporting Periods

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<th>Crime Category</th>
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<td>Crime Category</td>
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<th>Crime Category</th>
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<td>Alcohol Violations</td>
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These crime statistics are provided in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 and the Kentucky Postsecondary Education Campus Security Act of 2000. If you have any questions, contact (insert contact information), at (insert contact phone number).

(4) The calendar year for the annual report shall be the calendar year previous to the year in which the report is filed.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dennis L. Tauboe

(1) Provide a brief summary of:
(a) What this administrative regulation does: Provides a uniform format for reporting crime statistics.
(b) The necessity of this administrative regulation: 2000 ch. 190,
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

COUNCIL ON POSTSECONDARY EDUCATION (Emergency)

13 KAR 2:100E. Campus security.

RELATES TO: KRS 164.945 to 164.947, 227.200, 227.230
EFFECTIVE: August 15, 2000
NECESSITY, FUNCTION, AND CONFORMITY: The Michael Minger Act, 2000 Ky. Acts ch. 190, p. 478, requires public postsecondary education institutions and those private postsecondary education institutions licensed by the Council on Postsecondary Education to report campus crimes to the students and the public and to report annually to the Council on Postsecondary Education. The council has responsibility for developing formats for reporting and for ensuring that annual reports are received from the institutions. The State Fire Marshal is granted access to the property of an institution that is covered by this Act for the purpose of inspection, investigation or any other action necessary to prevent fire loss or to determine the origin of any fire. This administrative regulation addresses the responsibilities of public postsecondary education institutions.

Section 1. Definitions. (1) "Annual report" means the report submitted by an institution to the council that satisfies the requirements of 2000 Ky. Acts ch. 190, p. 478, sec. 5.
(2) "Campus" is defined in 2000 Ky. Acts ch. 190, p. 478, sec. 1.
(3) "Campus crime log" means the daily log maintained by an institution and developed by the council consistent with the provisions of 2000 Ky. Acts ch. 190, p. 478, sec. 2.
(4) "Campus security authority" is defined in 2000 Ky. Acts ch. 190, p. 478, sec. 5.
(5) "Council" means the Council on Postsecondary Education as established by KRS 164.011.
(7) "Fire marshal" means the State Fire Marshal as described in KRS Chapter 227.
(8) "Institution" means a public postsecondary education institution as defined in 2000 Ky. Acts ch. 190, p. 478, sec. 1(4).

Section 2. Property Included Under the Term Campus. (1) An institution shall, consistent with the provisions of 2000 Ky. Acts ch. 190, p. 478, sec. 1(1), establish a list of all property:
(a) Owned;
(b) Managed; or
(c) Controlled by an institution.
(2)(a) All property on the list shall be classified by one (1) of the categories listed in subsection (1) of this section.
(b) The list shall be updated as necessary but not less than annually.

Section 3. Release of Information to the Public. (1) In satisfying the provisions of 2000 Ky. Acts ch. 190, p. 478, sec. 2(1)(b)1 an institution shall develop and maintain a written policy that sets forth the general conditions under which the institution may withhold information on an incident.
(2) The written policy shall be:
(a) Subject to the limitations established in 2000 Ky. Acts ch. 190, p. 478, sec. 2(1)(b)1 and 2; and
(b) Designed to ensure that information is available to the public as soon as possible.
(3)(a) An institution may archive campus crime log information after sixty (60) days have elapsed.
(b) An institution that elects to archive campus crime log information as described in paragraph (a) of this subsection, shall have two (2) business days to respond to information requests for material that
Section 4. Special Reports. An institution shall report, in writing, to
the council on how it shall comply with the provisions of 2000 Ky. Acts
ch. 190, p. 478, sec. 2(2).

Section 5. Campus Crime Log. (1) An institution shall maintain a
2.

(2) Information contained in the campus crime log shall include all

ch. 190, p. 478, sec. 1(3) shall be consistent with the Kentucky Re-
vised Statutes and the definitions used in the Uniform Crime Reporting
System of the federal government.

Section 7. State Fire Marshal and Threat of Fire. (1) A threat of
fire includes:

(a) All fire alarms except as provided in subsection (2) of this sec-
tion; and

(b) An expression of an intention by a person or group of persons
to inflict something harmful in the way of destructive burning or explo-
sion.

(2) However, a threat of fire does not include an alarm triggered
for the purpose of maintenance testing.

(3) (a) A threat or actual alarm shall be reported immediately to the
State Fire Marshal and the local fire department except as provided in
paragraph (b) of this subsection.

(b) However, an institution that has a university fire marshal and a
written agreement with the State Fire Marshal's Office may inform the
university fire marshal.

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<tr>
<th>Crime Category (1)</th>
<th>Campus Property (2)</th>
<th>Criminal Attempt (3)</th>
<th>Campus Residential Facility (4)</th>
<th>Noncampus Property (5)</th>
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| Bias - Ethnic      |                     |                     |                               |                        |                     |
| Bias - Disability  |                     |                     |                               |                        |                     |
| Manslaughter       |                     |                     |                               |                        |                     |
| Menacing           |                     |                     |                               |                        |                     |
| Motor Vehicle Theft|                     |                     |                               |                        |                     |
| Murder             |                     |                     |                               |                        |                     |
| Reckless Homicide  |                     |                     |                               |                        |                     |
| Robbery            |                     |                     |                               |                        |                     |
| Sex Offenses - Forcible |               |                     |                               |                        |                     |
| Sex Offenses - Nonforcible |          |                     |                               |                        |                     |
| Stalking           |                     |                     |                               |                        |                     |
| Terroristic Threatening |               |                     |                               |                        |                     |
| Theft              |                     |                     |                               |                        |                     |
| Wanton Endangerment |                   |                     |                               |                        |                     |
| Weapons Possession |                     |                     |                               |                        |                     |

Notes for Preceding Chart
1. These are the crime categories as required by the federal and state statute. Those crime categories listed in bold print are specific to the Minger Act while both statutes require all others.
2. On-campus property includes all property owned by the institution and any reports taken by institution law enforcement officers on adjacent streets.
3. Any attempt to commit the crimes listed in column one.
4. Number of crimes that occurred in institution residence halls, student apartment housing, or Greek sponsored housing facilities, if appropriate. These numbers are included in the on-campus property totals.
5. Noncampus property. These are any of the officially recognized/owned/leased/controlled institution properties that are located off the main campus area.

(4) An agreement between a local fire department and an institu-
tion for responses to a fire alarm shall be in writing.

Section 8. Annual Report. (1) The annual report filed by an institu-
tion as set forth in 2000 Ky. Acts ch. 190, p. 478, sec. 4 shall be titled
"The Campus Security Act Report for (DATE)".

(2) The wording for the annual report shall include:

(a) The name of the institution;

(b) The title of the report as set forth in subsection (1) of this
section; and

2. The calendar year for the report following the word for.

(3) The body of the report shall include these sections organized
as set forth in this subsection:

(a) Section 1 shall be titled "Section 1. Campus Security Authority" and shall include:

1. A list of all personnel that meet the definition of Section 1(4) of this administrative regulation;

2. A description of the extent and nature of the enforcement
authority of campus security authority personnel; and

3. The working relationship of campus security authority personnel
with state and local police agencies.

(b) Section 2 shall be titled "Section 2. Description of Information Programs" and shall include:

1. A description of programs that inform students and employees about:

a. Campus safety and security;

b. How to report crimes; and

c. How to prevent crimes.

(c) Section 3 shall be titled "Campus Crime Statistics for (DATE)"
and shall include:

1. The calendar year of the report after the word for; and

2. The tables as follow:
6. Public property within the same reasonably contiguous geographic area of the institution (sidewalk, street, other thoroughfare or parking facility) and adjacent to a facility owned or controlled by the institution. These crime statistics are those reported to by the (INSERT LOCAL LAW ENFORCEMENT AUTHORITY HERE), the law enforcement agency with primary jurisdiction of that area.

7. Hate crimes - These are crimes that fall into one of the reportable categories as required by the statute, or other crimes in which the victim was intentionally selected because of an actual or perceived prejudice.

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<tr>
<th>Crime Category</th>
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<td>Alcohol Related</td>
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VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

Thief
Wanton Endangerment
Weapon Possession

These crime statistics are provided in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 and the Kentucky Postsecondary Education Campus Security Act of 2000. If you have any questions, contact (insert contact information), at (insert contact phone number).

GORDON K. DAVIES, President
APPROVED BY AGENCY: August 9, 2000
FILED WITH LRC: August 15, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dennis L. Taulbee
(1) Provide a brief summary of:
(a) What this administrative regulation does: Provides a uniform format for reporting crime statistics.
(b) The necessity of this administrative regulation: 2000 Ky. Acts ch. 190, p. 476 requires annual reporting by institutions on campus crime.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation follows the statutory requirements explicitly.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: A common reporting format is necessary to comply with the statutes.
(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: All public and private postsecondary education institutions are affected as are campus security personnel of institutions. Citizens are beneficiaries of the enabling statute and 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: Campus security personnel will be identified. The public will be informed about the crimes and fire alarms reported on a campus.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: Institutions have estimated costs in excess of $400,000.
(b) On a continuing basis: same as above.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State appropriation and agency receipts.
(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 additional fees are contemplated at this time.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No
(9) TIERING: Is tiering applied? Tiering is not applied and is not necessary given the uniform nature of the target audience.

STATEMENT OF EMERGENCY
501 KAR 6:220E

In order to establish minimum requirements for treatment of sex offenders as required by KRS 17.554 and 17.564, the Sex Offender Risk Advisory Board needs to implement this emergency administrative regulation. An ordinary administrative regulation shall not suffice as this administrative regulation needs to be effective immediately in order to lessen the risk of recidivism which impacts public safety. The Sex Offender Risk Advisory Board has established this administrative regulation to comply with the recently enacted statutory changes in KRS 17.510-17.991. I am requesting that this administrative regulation be declared an emergency so the Sex Offender Risk Advisory Board may begin instructing providers in the proper standards and procedures for treatment of sex offenders. 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
GARY L. DENNIS, Ph.D., Chairman

JUSTICE CABINET
Sex Offender Risk Advisory Board
(Emergency)

501 KAR 6:220E. Treatment for sex offenders.

RELATES TO: KRS 17.550 to 17.991
STATUTORY AUTHORITY: KRS 17.554(2), 17.564
EFFECTIVE: July 27, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(2) authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish the minimum requirements for treatment of sex offenders.

Section 1. Definitions. (1) "Approved provider" is defined in KRS 17.550(3).
(2) "Board" is defined in KRS 17.550(1).
(3) "Treatment services" is defined in KRS 197.420(2)(b).

Section 2. Procedures for Treatment of Sex Offenders. (1) Treatment shall conform to community standards of care, and shall include:
(a) A diagnosis; and
(b) A written treatment plan, which shall include:
1. Goals and objectives; and
2. Modalities of treatment and the rationale therefor.
(2) Treatment shall be conducted in a psychotherapy format and may utilize psychosocial educational components.
(3) Prior to providing treatment, an approved provider shall:
(a) Submit a general treatment curriculum to the board; thereafter, if the approved provider wants to change his general treatment curriculum, he shall submit the proposed changes to the board for prior approval;
(b) Obtain written informed consent for treatment from the offender;
(c) Contact the offender's supervising probation and parole officer to discuss the offender and obtain offender information; and
(d) Make a good faith effort to obtain the offender's mental health records.
(4) An approved provider shall:
(a) Provide psychological or pharmacological services or testing as needed or make the appropriate referral and act as liaison for the provisions of these services;
(b) Utilize a treatment curriculum which, at a minimum, shall include:
1. Treatment services as may be necessary to meet the needs of the individual offender;
2. An emphasis on acceptance of responsibility by the offender for present and past sexual offending behavior;
3. Gender and culture specific programming; and
4. Education of the offender in:
   a. The cycle of sexual abuse;
   b. Human sexuality;
   c. Deviant arousal and its reduction;
   d. Cognitive restructuring of the sex offender;
   e. Relapse prevention;
   f. Partner and family interactions and support, if applicable;
   g. Victim empathy awareness; and
   h. Relationship skills.
(c) Provide treatment consistent with current professional literature which minimizes the risk of recidivism and emphasizes community safety;
(d) Eighty (80) face-to-face sessions of at least forty-five (45) minutes for an individual session or ninety (90) minutes for a group session for a minimum of twenty-four (24) months with at least forty (40) face-to-face sessions conducted during the first twelve (12) months;
(e) Maintain an individual record which shall include documentation of the offender’s attendance and evaluative progress notes;
(f) Obtain a release of information signed by the sex offender which allows the approved provider to release information to probation and parole personnel responsible for the sex offender’s supervision and the Sex Offender Risk Assessment Advisory Board;
(g) Notify the offender’s supervising probation and parole officer in writing when the offender fails to attend a treatment session or fails to make a good faith effort to participate in the treatment;
(h) Cooperate fully with the probation and parole supervision team responsible for a sex offender under the approved provider’s treatment; and
(i) Prepare a treatment summary at discharge from treatment.

GARY L. DENNIS, Ph.D., Chairman
KEITH HARDISON, Assistant General Counsel
APPROVED BY AGENCY: July 28, 2000
FILED WITH LRC: July 27, 2000 at 3 p.m.
CONTACT PERSON: Tamela Biggs, Staff Attorney, Kentucky Department of Corrections, Office of General Counsel, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Phone (502) 564-2024, Fax (502) 564-6494.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Tamela Biggs, Staff Attorney
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This regulation establishes the minimum requirements for sex offender treatment.
   (b) The necessity of this administrative regulation: To conform to the requirements of KRS 17.550, 17.554 and 17.564.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation provides the minimum treatment requirements for an individual who wishes to be approved as a provider by the Sex Offender Risk Assessment Advisory Board.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By providing clear and concise treatment requirements for an approved provider and the sex offenders he treats.
(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) Type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 250 felony sex offenders convicted each year who are eligible for probation, an unknown number of sex offenders who may be released on parole, and an undetermined number of mental health providers in private practice who are eligible to be approved by the Sex Offender Risk Assessment Advisory Board to conduct treatment of sex offenders.

(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: An approved provider shall be required to conform his treatment of sex offenders to the minimum requirements set by the board. Each sex offender’s treatment experience shall be supported by professional literature in the area, with the goals of acceptance of responsibility for past and current sexual offending and reducing the risk of reoffending.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: An unknown portion of salaries of current staff of the Department of Corrections Division of Mental Health.
   (b) On a continuing basis: Unknown enforcement costs for violations of the regulation.
   (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars were not budgeted in the 2000-2002 biennial to fund this project. Department of Corrections Division of Mental Health staff salaries have not been increased.
(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: If the Board must pursue any enforcement actions, then additional funding shall be required. Fees are not currently authorized.
(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.

STATEMENT OF EMERGENCY
722 KAR 1:150E

This emergency administrative regulation applies to the employment of retired teachers for positions that are deemed critical shortage areas as provided by 2000 HB 519. HB 519 requires the Kentucky Board of Education to promulgate administrative regulations setting forth the procedures which must be followed to obtain the Commissioner of Education’s approval for school districts to employ retired teachers. This emergency administrative regulation is necessary to enable local school districts to employ teachers in critical shortage areas for the 2000-2001 school term. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation is being filed with the Regulations Compiler simultaneously with this emergency administrative regulation.

PAUL E. PATTON, Governor
KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson

EDUCATION, ARTS, AND HUMANITIES
Kentucky Board of Education
Department of Education
Office of District Support Services
(Emergency)

702 KAR 1:150E. Employment of retired teachers in critical shortage areas.

RELATES TO: KRS 156.106, 156.487, 161.605
STATUTORY AUTHORITY: KRS 156.070
EFFECTIVE: August 15, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.106 and 156.487 requires the Kentucky Board of Education to promulgate an administrative regulation to establish procedures to be used to appoint retired teachers and administrators to positions in critical shortage areas. This administrative regulation establishes the proce-
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

dures for local school districts to follow to enable the appointment of retired teachers and administrators to positions in critical shortage areas. The emergency regulation will allow implementation of the program in the 2000-01 school year.

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 in a way that does not violate the rights of the teacher deemed unsuitable for appointment.

Section 2. To establish the need for employing a retired teacher or administrator in a critical shortage area as identified by the Commissioner of Education, a school district superintendent shall submit a written statement to the Department of Education confirming the following:
(1) The superintendent has made every reasonable effort to recruit an active teacher or administrator for the position on an annual basis;
(2) No qualified teacher or administrator has applied for the vacant position, or to the superintendent's knowledge, a qualified teacher or administrator is not available for the position;
(3) The vacancy has been advertised locally, regionally, and statewide by appropriate means;
(4) The school district has been unsuccessful in recruiting a qualified teacher or administrator for the vacant position from the listings of teachers and administrators supplied by the placement services of the teacher education institutions, the Kentucky Department of Education, and other professional organizations; and
(5) The school district has complied with criminal records check required by KRS 160.580 as to the applicant whom the school district intends to hire into the vacant position.

Section 3. (1) A request to appoint a retired teacher or administrator in a position in a critical shortage area shall be submitted to the Department of Education no earlier than June 1 of each year, and it shall include a specific plan for continuing to recruit an active teacher or administrator for the position.
(2) If the statewide quota for the hiring of teachers and administrators in critical shortage areas has not been met, after September 15 of each school year a local school district superintendent may request approval from the Department of Education for the school district to exceed its quota of retired teachers and administrators as employees.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 14, 2000
FILED WITH LRC: August 15, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the procedures for local school districts to follow to enable the appointment of retired teachers and administrators to positions in critical shortage areas.
(b) The necessity of this administrative regulation: This administrative regulation is promulgated per directives in HB 519 (2000 General Assembly).
(c) How this administrative regulation conforms to the content of the authorizing statutes: HB 519 (2000 General Assembly) creates a new section of KRS Chapter 156 to allow local school districts to employ retired teachers and administrators in critical shortage areas. This administrative regulation is in response to the directive in HB 519 that the Kentucky Board of Education establishes by administrative regulation the procedures that local school districts must follow to appoint retired teachers and administrators.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statues: This administrative regulation provides a brief but efficient method of implementing HB 519.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: N/A
(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: 176 local school districts.
(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 administrative regulation establishes a brief but effective process for school districts to follow. This process allows for approval of a request to be granted within 24 hours.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No costs are involved.
(b) On a continuing basis: No costs are involved.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No costs are involved.
(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 costs are involved.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No
(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

STATEMENT OF EMERGENCY
704 KAR 3:490E

This emergency administrative regulation applies to the administration of a Teachers' Professional Growth Fund. It establishes the application and approval process for teacher receipt of funds, the requirements and process for distribution of funds, and the number and kinds of approved courses for which applicants may receive funds as appropriated by the 2000 General Assembly. As required in 2000 SB 77, all funds appropriated by the General Assembly shall be distributed to middle level (grades 5-8) teachers of mathematics who teach in a self-contained classroom or a departmentalized setting, including vocational education teachers and teachers of exceptional children. This emergency administrative regulation is necessary to enable the distribution of funds to teachers beginning in the 2000-2001 academic year. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation is being filed with the Regulations Compiler simultaneously with this emergency administrative regulation.

PAUL E. PATTON, Governor
KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Bureau of Learning Support Services
(Emergency Administrative Regulation)


RELATES TO: KRS 156.551, 156.553
STATUTORY AUTHORITY: KRS 156.070, 156.553
EFFECTIVE: August 15, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.553 authorizes the Kentucky Board of Education to promulgate an admin-
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

istrative regulation for administration of a Teachers’ Professional Growth Fund. This administrative regulation establishes the application and approval process for receipt of funds, the requirements and process for distribution of funds, and the number and kind of approved programs and courses for which applicants may receive funds. This emergency administrative regulation is being promulgated in order to begin distributing the funds in the 2000-01 school year as appropriated by the 2000 General Assembly.

Section 1. Definition. “Teacher of mathematics” means a teacher of mathematics in a self-contained classroom or in a departmentalized setting, including vocational education teachers and teachers of exceptional children.

Section 2. Certification of Approved Professional Development Providers. (1) An approved provider shall meet the professional development needs of middle school teachers of mathematics.

(2) An approved provider may include teachers or university professors with expertise in mathematics and the teaching of mathematicians, schools, school districts, colleges, universities, educational cooperatives, professional development consortia, or professional organizations.

(3) A provider shall submit the following to the Kentucky Department of Education (KDE) for approval:

(a) A syllabus or outline of the course or professional development program offered by the provider, including available dates and times, if possible;

(b) A description explaining how the course or program meets the requirements as specified in KRS 156.553 and in 704 KAR 20:730, Section 3, related to experienced teacher standards;

(c) The qualifications of the instructor or instructional leader;

(d) An explanation of how the course or program will improve a teacher’s knowledge of content, instructional practices and student learning in mathematics; and

(e) Itemized costs for the course or program.

(4) A university or college offering a course as defined by the Education Professional Standards Board in accordance with KRS 156.553(3) shall not be required to be certified as a provider in order for the middle school teacher to be eligible for tuition reimbursement.

Section 3. Criteria for Eligible Activities. The fund may be used by teachers for participation in approved activities as specified in KRS 156.553(2).

Section 4. Application Process. (1) A public middle school teacher of mathematics may submit an application:

(a) No later than December 1 for a year-long plan (fall, spring, or summer semesters) or any segment thereof;

(b) No later than December 1 for fall semester activities only; or

(c) No later than March 30 for spring semester and summer activities or summer activities only.

(2) Fall semester activities shall be completed by December 31, spring semester activities shall be completed by May 31, and summer activities shall be completed by August 15.

(3) An application shall include the following:

(a) Proposed coursework from an approved provider, or an approved professional development program;

(b) Certification from the principal that the teacher is employed or will be employed as a middle school teacher with responsibility for teaching mathematics, and that the plan is consistent with the teacher’s individual growth plan or the school’s consolidated plan;

(c) An explanation of how the proposed activities will impact the teacher’s knowledge of the content area, instructional practices and student learning;

(d) A budget not to exceed $2,500 with an explanation of proposed expenditures; and

(e) The signature of the district superintendent indicating that necessary human and financial resources to support the application are available.

(4) If a teacher applicant requests to access these funds for the purpose of pursuing the Continuing Education Option for Rank Change established in 704 KAR 20:02, then the teacher shall submit a copy of the letter from the Education Professional Standards Board stating that the teacher has been accepted as a candidate for this program. The acceptance letter shall establish the teacher as the approved professional development provider required under Section 2 of this administrative regulation.

(5) If a teacher’s plan involves an unapproved provider, the teacher shall include information required under Section 2(3) of this administrative regulation to be considered for approval.

(b) The application may be submitted for approval to the Department of Education electronically by the teacher or through the district professional development coordinator.

(7) The budget for an individual teacher plan shall not exceed $2,500 per fiscal year. Each region shall be allocated an amount from the fund that is proportional to the number of teachers of middle school mathematics in the region. If all funds are not expected to be used by teachers in the region based on the proposed plans submitted by March 30, the funds shall be made available to teachers statewide based on need as demonstrated by student performance. If the requests exceed the funds available, the plans shall be approved based on the date and time of application.

(8) Travel costs shall be reimbursed pursuant to 200 KAR 2:006. A request may include a reasonable stipend per day based on a six (6) hour day. Reimbursements and stipends shall be paid semiannually upon receipt by KDE of a final report from the teacher.

Section 5. Reimbursement Process. (1) The final report for fall and spring activities shall be submitted no later than May 31. The final report for summer activities shall be submitted to KDE no later than thirty (30) days after the completion of the activity.

(2) The report shall include the following:

(a) Evidence of accomplishment by the teacher providing:

1. Documentation of successful completion of the course or program certified by the approved provider; or

2. Evidence that a portfolio has been submitted for scoring to the EPSB if the teacher is a candidate for the Continuing Education Option for Rank Change;

(b) An evaluation of the course or program; and

(c) Documentation of expenditures by providing a miscellaneous expense voucher provided by the Kentucky Department of Education.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 10, 2000
FILED WITH LRC: August 15, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Kevin M. Noland

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application and approval process for teacher receipt of funds through the Teachers’ Professional Growth Fund, the requirements and process for distribution of funds, and the number and kinds of approved courses for which applicants may receive funds as appropriated by the 2000 General Assembly.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of 2000 Ky. Acts ch. 527, sec. 2(f).

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides the specifics for the application and approval process for teacher receipt of funds, the requirements and process for distribution of funds, and the number and kinds of approved courses for which applicants may receive funds, as required to be included in regulation by 2000 Ky. Acts ch. 527, sec. 2(f).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the specifics for the application and approval process for teacher receipt of funds, the requirements and process for distribution of funds, and the number and kinds of approved courses for which applicants may receive funds.

(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 is not an amendment.
(b) The necessity of the amendment to this administrative regulation: This is not an amendment.
(c) How the amendment conforms to the content of the authorizing statute: This is not an amendment.
(d) How the amendment will assist in the effective administration of the statute: This is not an amendment.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All middle school teachers of mathematics including those in a self-contained classroom or in a departmentalized setting, vocational education teachers, and teachers of exceptional children.
(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: Middle school teachers of mathematics will be reimbursed for courses and professional development activities they attend to enhance and update their content knowledge in mathematics and content-specific pedagogy skills.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation. However, there will be an increase in the use of secretarial time to process applications and an increased use of consultant time to review and approve applications and final reports.
(b) On a continuing basis: Increased use of secretarial and consultant time to administer the fund.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.
(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 to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fee.
(9) 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.

STATEMENT OF EMERGENCY 704 KAR 4:020E

This emergency administrative regulation applies to the requirement of a vision examination by an optometrist or ophthalmologist prior to January 1 of the first year that the child is enrolled in public school, public preschool or Head Start Program, as provided by 2000 HB 706. This emergency administrative regulation is necessary to enable local school districts to implement the vision requirement for the beginning of the 2000-2001 academic year to meet the deadline set by the new legislation. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation is being filed with the Regulations Compiler simultaneously with this emergency administrative regulation.

PAUL E. PATTON, Governor
KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson

EDUCATION, ARTS, AND HUMANITIES
Kentucky Board of Education
Department of Education
Office of District Support Services
(Emergency Amendment)

704 KAR 4:020E. School health services.

RELATES TO: KRS 156.160
STATUTORY AUTHORITY: KRS 156.070, 156.160

EFFECTIVE: August 15, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to adopt administrative regulations governing medical inspection, physical education and recreation, and other rules and administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. This administrative regulation establishes standards and criteria for preventative health care examinations at the local school district level. This emergency administrative regulation will enable local school districts to implement the vision requirement for the beginning of the 2000-2001 academic year, the deadline set by 2000 HB 706.

Section 1. School Employee Medical Examinations. (1) A local board of education shall require a medical examination of each certified and classified employee, including each substitute teacher, prior to initial employment that shall include a tuberculin (TB) skin test. This medical examination requirement shall not apply to bus drivers who are covered by 702 KAR 5:080. A local board of education may require by policy that a school employee physical examination be conducted no earlier than a ninety (90) day period prior to initial employment.
(2) A medical examination shall be reported on the form, "Medical Examination of School Employees".
(3) A person who tests positive for TB shall be required to comply with the directives of the local board of health and the Department for Public Health, Cabinet for Health Services for further evaluation and treatment of the tuberculosis infection.
(4) Following the required medical examination for initial employment and any subsequent examinations as may be required for positive tuberculin reactors, a school district employee other than a bus driver shall submit to the local school superintendent a statement indicating his medical status. The medical examination shall be performed and signed for by a physician, physician assistant, or an advanced registered nurse practitioner.
(5) TB skin test documentation shall include:
(a) The date given;
(b) Type of test;
(c) Millimeters of induration;
(d) Date read and by whom; and
(e) Date x-ray taken or that no further follow-up is necessary unless signs or symptoms of tuberculosis develop.
(6) A local board of education shall require all school personnel exhibiting symptoms of chronic respiratory disease to be examined for tuberculosis. The evaluation and any required treatment for tuberculosis infection shall be based upon the directives of the local board of health.
(7) In a county with a high incidence rate for tuberculosis infection that is equal to or greater than one (1) percent, the local board of health may, with the approval of the Department for Public Health, Cabinet for Health Services, require more extensive testing for tuberculosis than outlined above.

Section 2. Preventative Health Care Examinations. (1) A local board of education shall require a preventative health care examination of each child within one (1) year prior to the child's initial admission to school. A second examination shall be required within one (1) year prior to entry into the sixth grade, or initial admission to school. A third examination may be required by policy of the local board of education within one (1) year prior to entry into the ninth grade or initial admission to school.
(2) An out-of-state transfer student shall be required to have documentation of a preventative health care examination.
(3) A local school board may extend the deadline by which to obtain either preventative health care examination, not to exceed two (2) months.
(4) A preventative health care examination may be performed and signed for by a physician, an advanced registered nurse practitioner, a physician's assistant, or by a health care provider in the early periodic
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

screening diagnosis and treatment programs.

(5) A preventative health care examination shall be reported on the form "Preventative Health Care Examination Form," dated December 1999, and shall include:
   (a) A medical history;
   (b) Assessment of growth and development and general appearance;
   (c) Physical assessment including hearing and vision screening; and
   (d) Recommendations to the school regarding health problems that may require special attention in classroom or physical education activities.

(6) A vision examination shall be reported on the form "Kentucky Eye Examination Form for School Entry," dated August 2000.

(7) A record of immunization shall be submitted on a valid immunization certificate.

(8) [(7)] A local school district shall establish a plan for implementation and compliance required for the sixth grade preventative health care examination.

(9) [(6)] A valid immunization certificate shall be on file within two weeks of the child's enrollment in school.

(10) [(9)] TB testing shall be carried out upon notification by a local health department.

(11) [(10)] A board of education shall adopt a program of continuous health supervision for all school enrollees. Supervision shall include scheduled, appropriate screening tests for vision, hearing and scoliosis.

(12) [(9)] A local spinal screening program for scoliosis shall include:
   (a) Training sessions for teachers or lay volunteers who will be doing the screening;
   (b) Obtaining parental permission for scoliosis screening;
   (c) Established screening times, at least in grades six (6) and eight (8) and appropriate procedures and referral criteria;
   (d) Mandated education of students regarding scoliosis screening; and
   (e) Required referral of all children with abnormal screening results for appropriate diagnosis and treatment and follow-up on these referrals. Local referral and follow-up procedures shall include:
      1. Notification of parents of students who need further evaluation by a physician;
      2. Tracking referrals to determine whether all children with abnormal screening results receive appropriate diagnosis and treatment; and
      3. Reporting of data on screening, referral and follow-up tracking to the Department of Education.

(13) [(11)] The Department of Education shall:
   (a) Monitor the spinal screening and referral programs provided by local boards of education;
   (b) Provide consultation and technical assistance to local boards of education concerning spinal screening, referral and follow-up for appropriate diagnosis and treatment; and
   (c) Encourage local school systems to work cooperatively with local health departments and local Commission for Children with Special Health Care Needs offices to plan, promote and implement scoliosis screening programs.

(14) [(12)] Referral and appropriate follow-up of any abnormality noted by screening assessment or teacher observation shall be recorded on school health records.

(15) [(13)] A school shall have emergency care procedures. The emergency care procedures shall include:
   (a) First aid facilities, including provisions for designated areas for the child to recline;
   (b) A requirement that whenever children are present during school hours, there shall be at least one (1) adult present in the schools who is certified in a standard first aid course which includes CPR for infants and children;
   (c) Parents' telephone number, or a number at which parents can be reached;
   (d) Name of family physician; and
   (e) Means of transportation.

(16) [(14)] A local board of education shall require immunizations as required by KRS 214.034.

Section 3. Cumulative Health Records. (1) A school shall initiate a cumulative health record for each pupil entering its school. The record shall be maintained throughout the pupil's attendance. The record shall be uniform and shall be on the form "Pupil's Cumulative Health Record." The record shall include screening tests related to growth and development, vision, hearing, and scoliosis, and findings and recommendations of a physician and a dentist. A follow-up by the proper health or school authorities shall be made on each abnormality noted and the result shall be recorded.

(2) A local school authority shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. Physical Environment. A board of education shall provide and maintain a physical environment that is conducive to the health and safety of school children in each school under its jurisdiction. A local board of education shall comply with current laws and administrative regulations applicable to all public buildings pertinent to health, sanitation, and safety. A local board of education shall establish:

(1) An adequate supply of water of safe, potable, sanitary quality;
(2) A state-approved sanitary disposal of sewage, other water carried waste, and solid waste;
(3) Adequate toilet and lavatory facilities, including soap or detergent as well as towels or other methods for drying hands, and other sanitary fixtures;
(4) Adequate heating, lighting, and ventilation in all school buildings;
(5) Adequate facilities and equipment for cafeterias and lunchrooms;
(6) Supervision of general sanitation and safety of the school buildings, grounds, and playground equipment;
(7) Adequate first aid facilities;
(8) Adequate control of air pollutants; and
(9) Universal precautions guidelines compatible with Occupational Safety and Health Administration guidelines.

Section 5. A superintendent shall designate a person to serve as school district health coordinator. The person designated shall meet the minimum qualifications required of this position as determined by the Educational Professional Standards Board in 704 KAR Chapter 20 or by the Kentucky Department of Education in the "Kentucky Local District Classification Plan for Classified Employees," Class Code: 7271, Class Title: School District Health Coordinator, dated December 1999. The school district health coordinator shall work in cooperation with all school personnel, the local board of education, the State Department of Education, the local health department, family resource and youth services centers and parents in planning, promoting, and implementing a school health services program.

Section 6. Incorporation by Reference. (1) The following documents are incorporated by reference:
   (a) "Medical Examination of School Employees," dated December 1999;
   (b) "Preventative Health Care Examination Form," dated December 1999;
   (c) "Pupil's Cumulative Health Record," dated January 1993;
   (d) "Kentucky Local District Classification Plan for Classified Employees," Class Code: 7271, Class Title: Local District Health Coordinator," dated December 1999; and
   (e) "Kentucky Eye Examination Form for School Entry," dated August 2000.

(2) These documents may be inspected and copied at the Division of Student, Family, and Community Support Services, Department of Education, 17th Floor, Capital Plaza Tower, 500 Merro Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m.

KEVIN M. NOLDAN, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 10, 2000
FILED WITH LRC: August 15, 2000 at 9 a.m.
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland

(1) Provide a brief summary of:
(a) What this administrative regulation does: The 2000 Session of the Kentucky General Assembly passed HB 706, the Governor's Early Childhood Initiative. This bill requires the Kentucky Board of Education to promulgate administrative regulations that shall provide evidence that a vision examination has been performed by an optometrist or ophthalmologist no later than January 1 of the first year that the child is enrolled in public school, public preschool, or Head Start Program. The attached regulation incorporates the changes required by HB 706.

(b) The necessity of this administrative regulation: This emergency regulation is necessary to enable local school districts to implement the vision requirement for the beginning of the 2000-2001 academic year to meet the deadline set by the new legislation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Medical inspection, physical and health education and recreation, and other regulations necessary are advisable for the protection of the physical welfare and safety of the public school children. The administrative regulation shall set requirements for student health standards to be met by all students in grades 4, 9, and 12 pursuant to the outcomes described in KRS 158.6451.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It adds vision examinations to the regulation.

(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: It adds a provision that students present evidence that a vision examination has been performed by an optometrist or ophthalmologist no later than January 1 of the first year that the child is enrolled in public school, public preschool, or Head Start Program.

(b) The necessity of the amendment to this administrative regulation: This emergency administrative regulation applies to the requirement of a vision examination by an optometrist or ophthalmologist prior to January 1 of the first year that the child is enrolled in public school, public preschool, or Head Start Program, as provided by 2000 HB 706.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation incorporates a vision exam form that establishes criteria for the vision exam, as directed by HB 706, which amended KRS 158.160.

(d) How the amendment will assist in the effective administration of the statutes: It adds vision examinations to the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 176 school districts.

(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: The above groups are not impacted by this administrative regulation, except for school districts, which receive the completed vision exams.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KCHIP, Medicaid, private insurance, $300,000 general state budget for vision exams.

(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: N/A

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: N/A

TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

STATEMENT OF EMERGENCY
902 KAR 20:008E

This emergency administrative regulation amends 902 KAR 20:008 to allow for an increase in licensing fees for health facilities and services. This emergency administrative regulation also allows for an automatic adjustment to the licensing fees on an annual basis. This administrative regulation must be enacted on an emergency basis as the budget for The Office of the Inspector General, Division of Licensing and Regulation, effective July 1, 2000, requires the adjustment of the licensing fees to implement the hiring of additional staff which are needed to protect the citizens of the Commonwealth who receive health care from licensed health facilities and services. The emergency administrative regulation shall be replaced by an ordinary administrative regulation. The notice of intent to promulgate an administrative regulation will be filed with the Regulations Compiler at the same time as the emergency administrative regulation is filed.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(Emergency Amendment)

902 KAR 20:008E. License procedures and fee schedule.

RELATES TO: KRS 216.2925, 216B.010 to 216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216.550, 216B.042(1)(a),
EFFECTIVE: July 20, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1)(a) and 216B.105 require that the Cabinet for Health Services regulate health facilities and health services. This administrative regulation establishes requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license. [Executive Order 96-062, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.]

Section 1. Definitions. (1) "Accredited" means a hospital accredited by either the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or the American Osteopathic Association (AOA).

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

(3) [69] "Inspecting agency" means the Division of Licensing and Regulation in the Office of the Inspector General, Cabinet for Health Services.

Section 2. Licenses. (1) The license required by KRS 216B.105(1) shall be conspicuously posted in a public area of the facility.

(2) An applicant for a license shall file with the Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621, appropriate application for licensure, as follows:

(a) Application for License to Operate a Family Care Home;
(b) Application for License to Operate a Long-term Care Facility [and Rehabilitation Service];
(c) Application for License to Operate a Hospital;
(d) Application for License to Operate a Home Health Agency;
(e) Application for License to Operate a Special Health Clinic or Service; [Specialized Medical Technology Service, Mobile Health Service; or]
(f) Application for License to Operate a Health Facility or Service;
(g) Application for Initial License to Operate a Critical Access Hospital (CAH); or
(h) Application for Relicensure to Operate a Critical Access Hospital (CAH).

(3) An applicant for a license shall, as a condition precedent to licensure or relicensure, be in compliance with the applicable administrative regulations relating to the particular health facility:
(a) Compliance with licensure administrative regulations shall be
ascertained through an on-site inspection of the health facility. Except for a health facility subject to KRS 218.530, a licensure inspection may be unannounced.

(b) A representative of the inspecting agency shall have access to the health facility during the hours that the facility operates.

c. A regulatory violation identified during an inspection shall be transmitted in writing to the health facility by the inspecting agency.

d. The health facility shall submit a written plan for the elimination or correction of the regulatory violation to the inspecting agency within ten (10) days.

1. The plan shall specify the date by which each violation shall be corrected.

2. Following a review of the plan, the inspecting agency shall notify the health facility in writing of the acceptability of the plan.

3. If a portion or all of the plan is unacceptable:
   a. The inspecting agency shall specify the reasons for the unacceptability; and
   b. The health facility shall modify or amend the plan and resubmit it to the inspecting agency within ten (10) days.

4. A licensee shall, as a condition of licensure or relicensure, be in compliance with the following reporting requirements unless otherwise exempted.

   a. A licensee shall have submitted the completed annual reports, data submissions, and special reports required by the cabinet concerning health services provided, health manpower employed, or utilization of health services within forty-five (45) days of the date the report is mailed.

   b. A completed semiannual report required by the cabinet shall be submitted within thirty (30) days of the date the request is mailed.

   c. A licensee shall be notified of the reporting requirements established in KRS 211.190(7) and 902 KAR 17:040 no later than October 1 of the year preceding the report year.

   5. An unannounced inspection shall be conducted:
      a. On a complaint allegation; and
      b. Utilizing the procedures established in subsection (3) of this section.

   6. A license shall remain in effect for one (1) year from the date of issuance unless otherwise expressly provided in the license certificate.

   7. A licensee shall be renewed upon payment of the prescribed fee and compliance with the applicable provisions of the licensure administrative regulations.

   8. Each license to operate shall be issued for the person or persons and premises, including the number of beds if applicable, named in the application.

   9. More than one (1) license shall not be issued or renewed for a particular licensure category at a specific location and, if specified, a designated geographical area.

   10. A new application shall be filed in the event of change of ownership.

   a. A change of ownership for a license shall be deemed to occur if more than fifty (50) percent of an existing facility or capital stock or voting rights of a corporation is purchased, leased or acquired by comparable arrangement by one (1) person from another.

   b. Upon the filing of a new application for a license because of change of ownership, the new license shall be automatically issued for the remainder of the current licensure period. An additional fee shall not be charged for the remainder of the licensure period.

   11. There shall be full disclosure to the cabinet of the name and address, or a change in the name or address, of:
      a. Each person having a direct or indirect ownership interest of ten (10) percent or more in the facility;
      b. Each officer or director of the corporation, if a facility is organized as a corporation; and
      c. Each partner, if a facility is organized as a partnership.

Section 3. Fee Schedule. (1) Fees for review of plans and specifications for construction of health facilities shall be as follows:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Hospitals plans and specifications review</td>
<td>$0.04 per sq. ft. $100 minimum [2000 maximum]</td>
</tr>
</tbody>
</table>

(b) All other health facilities plans and specifications review $0.04 per sq. ft.

(Initial through final) $100 minimum [2000 maximum]

(2) Annual fees. The annual licensure fee (including a renewal) for health facilities and services shall be as follows:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Alternative birth center [centers]</td>
<td>$155</td>
</tr>
<tr>
<td>(b) Alzheimer's nursing home [homes]</td>
<td>$14 [8] per bed $155/minimum $1,545/maximum</td>
</tr>
<tr>
<td>(c) Ambulatory surgical center</td>
<td>$250 [155]</td>
</tr>
<tr>
<td>(d) Chemical dependency treatment service</td>
<td>$14 [8] per bed $155/minimum $1,545/maximum</td>
</tr>
<tr>
<td>(e) Community mental health and mental retardation center</td>
<td>$125 [750]</td>
</tr>
<tr>
<td>(f) Comprehensive physical rehabilitation hospital</td>
<td>$225 [155]</td>
</tr>
</tbody>
</table>

1. Accredited $9 per bed $155/minimum $1,545/maximum

2. Nonaccredited $14 per bed $155/minimum $1,545/maximum

(g) Critical access hospital | $14 per bed $155/minimum $1,545/maximum |

(h) [10] Day health care | $134 [80] |

(i) [10] Family care home [homes] | $40 |

(j) [10] Group homes for the mentally retarded/developmentally disabled | $80 |

(k) [10] Health maintenance organization [organizations] | $9 [5] per 100 patients |

(l) [10] Home health agency [agencies] | $134 [80] |

(m) [10] Homemaker | $60 |

(n) Hospital [in] Hospitals | $34 [20] |

1. Accredited hospital | $9 [5] per bed $155/minimum $1,545/maximum |

2. Nonaccredited hospital | $14 [8] per bed $155/minimum $1,545/maximum |

(o) [10] Intermediate care facility [facilities] | $14 [8] per bed $155/minimum $1,545/maximum |

(p) [10] ICF/MR facility [facilities] | $14 [8] per bed $155/minimum $1,545/maximum |

(q) Medical detoxification services | $259 |

(r) [10] Network [in] Networks | $155 |

(s) [10] Nursing facility [facilities] | $14 [8] per bed $155/minimum $1,545/maximum |

(t) [10] Nursing home | $14 [8] per bed $155/minimum $1,545/maximum |
<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>(u) Ambulatory care clinic</td>
<td>$259 [155]</td>
</tr>
<tr>
<td>(t) Outpatient clinics and ambulatory care facilities</td>
<td></td>
</tr>
<tr>
<td>(u) Personal care home</td>
<td>$4 per bed &lt;br&gt; $60/minimum &lt;br&gt; $80/maximum</td>
</tr>
<tr>
<td>(w) Prescribed pediatric extended care facility</td>
<td>$155</td>
</tr>
<tr>
<td>(x) Primary care center</td>
<td>$259 [155] &lt;br&gt; $25 per satellite</td>
</tr>
<tr>
<td>(y) Psychiatric hospital [hospitals]</td>
<td></td>
</tr>
<tr>
<td>1. Accredited</td>
<td>$9 [5] per bed &lt;br&gt; $155/minimum &lt;br&gt; $155/maximum</td>
</tr>
<tr>
<td>2. Nonaccredited</td>
<td>$14 [8] per bed &lt;br&gt; $155/minimum &lt;br&gt; $155/maximum</td>
</tr>
<tr>
<td>(z) Psychiatric residential treatment facility [facilities]</td>
<td>$259 [155]</td>
</tr>
<tr>
<td>(aa) Rehabilitation (outpatient)</td>
<td>$134 [88]</td>
</tr>
<tr>
<td>(bb) Renal dialysis facility</td>
<td>$34 [26] per station</td>
</tr>
<tr>
<td>(cc) Rural health clinic [clinics]</td>
<td>$134 [86]</td>
</tr>
<tr>
<td>(dd) Skilled nursing facility [facilities]</td>
<td>$14 [8] per bed &lt;br&gt; $155/minimum &lt;br&gt; $155/maximum</td>
</tr>
<tr>
<td>(ee) Special health clinic [clinics]</td>
<td>$259 [155]</td>
</tr>
<tr>
<td>(ff) Specialized medical technology service [technologies]</td>
<td>$259 [155]</td>
</tr>
<tr>
<td>(gg) Mobile health services</td>
<td>$155</td>
</tr>
<tr>
<td>(hh) Comprehensive physical rehabilitation hospital [hospitals]</td>
<td></td>
</tr>
<tr>
<td>1. Accredited</td>
<td>$9 [5] per bed &lt;br&gt; $155/minimum &lt;br&gt; $155/maximum</td>
</tr>
<tr>
<td>2. Nonaccredited</td>
<td>$14 [8] per bed &lt;br&gt; $155/minimum &lt;br&gt; $155/maximum</td>
</tr>
</tbody>
</table>

Section 4. Fee Increases. (1) Permit fees established in this administrative regulation shall be increased annually, effective July 1, 2001, based upon the Consumer Price Index for All Urban Consumers (CPI-U) U.S. City Average for All Items published the previous January by the Bureau of Labor Statistics. The annual percentage increase CPI-U may be viewed at ftp://ftp.bls.gov/pub/special.requests/cpi/cpi.txt.
(2) If the increased fee contains cents, the fee shall be rounded to the next whole dollar.
(3) Licensed health facilities and services shall receive written notice of the fee increase from the Division of Licensing and Regulation the month prior to the licensure fee being due.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Application for License to Operate a Family Care Home, L&R 4 (06/00) (11/99);
(b) Application for License to Operate a Long-term Care Facility and Rehabilitation Service, L&R 5 (06/00) (9/99);
(c) Application for License to Operate a Hospital, L&R 140 (08/00) (11/99);
(d) Application for License to Operate a Home Health Agency, L&R 141 (08/00) (2/00);
(e) Application for License to Operate a Special Health Clinic or Service, [Specialized Medical Technology Service, Mobile Health Service] L&R 142 (06/00) (6/98); and
(f) Application for License to Operate a Health Facility or Service, L&R 144 (06/00) (11/99).
(g) Application for Initial License to Operate a Critical Access Hospital (CAH), L&R 242 (6/00).
(h) Application for Relicensure to Operate a Critical Access Hospital (CAH), L&R 242A (6/00).
(2) This material may be inspected, copied or obtained at the Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday.

PAMELA J. MURPHY, Inspector General
JOHN WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 14, 2000
FILED WITH LRC: July 20, 2000 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Alex Reese

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the licensing procedures and lists fees associated with licensing the identified health facilities and services regulated by the Office of Inspector General Division of Licensing and Regulation. The process for obtaining a license is detailed through the process. The regulation lists the fees charged for plan reviews, licensure, and annual renewal.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the process of obtaining a license to operate the health facilities and services identified by the regulation.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 216B.042(1)(a) and 216B.105 require that the Cabinet for Health Services regulate health facilities and health services. This administrative regulation establishes requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation defines what steps are necessary in order for a health facility or service to become licensed and the process for these steps to be effected. The regulation is necessary for the Office of Inspector General, Division of Licensing and Regulation to regulate health facilities as required by KRS 216B.042(1)(a) and 216B.105.

(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 administrative regulation is being amended to make adjustments to the fees charged for plan reviews, licensure and relicensure of the identified health facilities and services. These fee increases are calculated by the average of the annual inflation rates published by the Bureau of Labor Statistics in Consumer Price Index (CPI) for each year since the last year the fees were adjusted. The amended regulation will also add a provision to adjust the fees charged an annual basis. The annual adjustment is based on inflation rate data published in the CPI.
(b) The necessity of the amendment to this administrative regulation: HB 502, as enacted by the 2000 Kentucky General Assembly establishes the Cabinet for Health Services operating budget for the fiscal biennium of 2001-2002. Specific language in the budget legislation states that the secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts that are reflected in the restricted funds appropriations allocated by the budget. The adjustment to the fees established by this regulation is necessary to fund items mandated by the budget.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 216B.042(1)(a) and 216B.105 require that the Cabinet for Health Services regulate health facilities and health services. This administrative regulation establishes requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license.
(d) How the amendment will assist in the effective administration of the statutes: The amended regulation will continue to provide the authority for the licensing of health facilities and services as required by KRS 216B.042(1)(a) and 216B.105. By adjusting the fees established in this regulation for inflation, the cabinet can continue to provide a high level of protection for citizens utilizing health facilities and services.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently there are 1,820 health facilities and services that are licensed under the authority of this 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: The fee increases are based on inflation rates so the costs to the identified health facilities and services, adjusted for inflation, should remain constant.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The Office of Inspector General anticipates additional revenues in the amount of $300,000 as a result of the increased fees.

(b) On a continuing basis: The amount of revenue will increase as the fees are scheduled to increase on an annual basis, based on the Consumer Price Index.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Funds.

(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: This administrative regulation directly increases plan review, licensure and annual relicense fees for health facilities and services identified in the regulation. There is no increased funding required above the $300,000 in additional revenues the increased fees will generate.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation directly increases licensing fees charged by the Office of Inspector General to the identified health facilities and services.

(9) 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 1:145E

This emergency administrative regulation is being promulgated to establish a new Supports for Community Living (SCL) slot allocation process for the SCL Waiver Program to conform with KRS 205.6317. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because SCL service providers would be unable to serve the waiting list, thus jeopardizing their ability to provide services to Medicaid recipients. 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 Long Term Care
(Emergency Amendment)

907 KAR 1:145E. Supports for community living services for an individual [individuals] with mental retardation or a developmental disability [disabilities].

RELATES TO: KRS 205.520, 42 CFR 441 [44], Subpart G, 42 USC 1396a, b, d, n

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520, 205.6317 [194A.659; EG 96-666]

EFFECTIVE: August 11, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, is required [has responsibility] to administer the Medicaid Program. [Executive-Order 96-652, 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—under KRS 205.520 authorizes the cabinet[by administrative regulation] to comply with requirements [a requirement] that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the coverage provisions relating to home and community-based services provided to an individual with mental retardation or a developmental disability [disabilities] as an alternative to placement in an intermediate care facility for an individual with mental retardation or a developmental disability [services for the mentally retarded].

Section 1. Definitions. (1) "Supports for community living (SCL)

means community-based waiver services for an individual with mental retardation or a developmental disability [disabilities].

(2) "Wellness monitoring" means a process in which a registered nurse:

(a) Evaluates the level of wellness of a recipient to determine if:

1. The recipient is properly using the medical health services being provided; and
2. The health of the recipient is sufficient to maintain him in his place of residence without more frequent skilled nursing intervention;

and

(b) Does not provide direct treatment to a [the] recipient.

(3) "Department" means the Department for Medicaid Services.

Section 2. General Coverage Provisions. (1) Except as provided in subsection (2) of this section, SCL services shall be provided to an individual eligible for Medicaid:

(a) Who meets patient status criteria for intermediate care for the mentally retarded in accordance with 907 KAR 1:022;

(b) Who is in a community residence living situation; and

(c) For whom SCL services are an appropriate alternative to institutionalization.

(2) SCL services shall not be provided to an individual who:

(a) Is an inpatient of a hospital;

(b) Is a resident of a nursing facility; or

(c) Is an inpatient of a facility for the mentally retarded.

(3) An individual eligible for Medicaid who is an inpatient or resident of a facility identified in subsection (2) of this section:

(a) May apply for an SCL service while the individual is an inpatient or resident of the identified facility; and

(b) Shall not receive the service while the individual is an inpatient or resident of the identified facility.

(4) The department may exclude from coverage an individual for whom the cost of SCL services exceeds the cost of the appropriate level of institutional care, if aggregate expenditures for the program are projected to exceed the corresponding institutional cost of comparable services, as provided for in 42 USC 1396n(c)(3).

(5) As [the] SCL service agency shall provide one (1) or more of the services as outlined in Section 4 of this administrative regulation.

(6) The federally designated Peer Review Organization (PRO) shall make the level of care determination as the agent of the department.

Section 3. Provider Participation. (1) A participating SCL service provider shall meet the applicable certification requirements for providing community-based waiver services in accordance with 907 KAR 1:671, 907 KAR 1:672 and 907 KAR 1:675.

(2) Group homes shall be licensed by the Commonwealth of Kentucky in accordance with 902 KAR 20:076.

Section 4. Covered Services. (1) The following shall be covered SCL services:

(a) Residential support services provided to an individual residing...
in an alternative living arrangement, which shall be a:
1. Group home;
2. Staffed residence; or
3. Family home;
(b) Support coordination as follows:
1. Initiation and ongoing monitoring of admission, assessment and
   eligibility processes;
2. Development and monitoring of an individual support plan;
3. Ensuring access to and freedom of choice of SCL providers;
4. Monitoring of the health, safety and welfare of the individual by
   a support coordinator;
5. Ensuring the availability of a waiver service;
6. Providing pertinent information to an individual, parent or legal
   representative;
7. Establishing and overseeing a human rights committee for the
   review of overall procedures and individual behavior plans;
8. Acting on behalf of the individual to assist in gaining access to
   and receiving services from qualified SCL providers; and [or]
9. Providing assistance to the individual, his family or legal repre-
   sentative in accessing another service as needed;
(c) Community living supports provided to an individual in the
   individual's home and not in an alternative living arrangement as iden-
   tified in paragraph (a) of this subsection, to assist, train or support in
   activities including:
1. Laundry services;
2. Meal preparation;
3. Household care or maintenance;
4. Daily living skills;
5. Socialization;
6. Relationship building;
7. Leisure choicess; or
8. Participation in community activities;
(d) Behavioral support;
(e) Psychological services;
(f) Occupational therapy;
(g) Physical therapy;
(h) Speech therapy;
(i) Community habilitation services to provide nonresidential sup-
   port training and intervention in activities that include:
   1. Self care;
   2. Daily living skills;
   3. Communication;
   4. Behavior support;
   5. Community living;
   6. Social skills;
   7. Participation in community activities;
   8. Utilization of community resources;
   (j) Supported employment for a participating individual if the serv-
      ices are not otherwise available under a program funded by 29 USC
      701 et seq. or PL 94-142;
(k) Respite care provided for the temporary relief of the staff or
     family or for the safety of the individual;
(l) Wellness monitoring, which shall be discontinued effective
     September 1, 2000, providing one (1) visit per month by a regist-
     rated nurse to:
     1. Evaluate the condition of an individual at risk of medical compli-
        ications;
     2. Refer the individual to the appropriate medical services;
     (m) Specialized medical equipment and supplies; or
     (n) Personal emergency response systems, which shall be dis-
         continued effective September 1, 2000.
(o) Vocational services if the services are not otherwise availa-
     ble under a program funded by 29 USC 701 et seq. or PL 94-142,
     effective September 1, 2000.
(2) Room and board shall be excluded from coverage.
(3) Special education and related services that are required to be
     provided by the public school system under 20 USC 1400 et seq. shall
     be excluded from coverage.

Section 5. Prior Authorization for Services. (1) The department
shall prior authorize an SCL service to ensure that:
(a) Client status is met;
(b) There are adequate services for the needs of the individual;
and
(c) The services do not exceed the cost of the appropriate level of
   institutional care.
(2) An individual who is eligible for SCL services shall be given
the choice of SCL services or traditional intermediate care facility services
for persons with mental retardation or developmental disabilities.

Section 6. SCL Waiting List. [Using the procedures established in
the Department for Medicaid Services Supports for Community Living
Manual, which is incorporated by reference, an individual may be
placed on a waiting list maintained by the department. The main com-
ponents of the SCL waiting list process shall be as follows:
1. A statewide waiting list of individuals applying for SCL services
   shall be maintained by the department or its designee for each re-
   gional community mental health mental retardation services geog-
   raphic region.
2. [Application:] An individual shall be placed on the SCL waiting
   list, and allocated based upon his region of residence in accordance
   with KRS 205.6317(3) and (4). In order to be placed on the SCL wait-
   ing list, an individual shall submit to the department's designee a
   completed application for supports for community living services in-
   cluding a physician's signature indicating medical necessity, [upon
   receipt of a completed application for supports for community living
   services:]
3. (2) SCL waiting list placement:
   (a) The order of placement on the SCL waiting list shall be deter-
       mined chronologically by date of receipt of the application by the de-
       partment's designee [department], unless an emergency situation
       exists which meets specified criteria as follows:
       (1) [Death or loss, including emergency hospitalization, of the
           immediate care provider;]
       (2) Attainment of the age of twenty (20) years and six (6) months,
           and in the custody of the Department for Community Based Services;
       or
   (c) Residing in an institution and if:
       1. The state's treating professionals have determined that an SCL
          placement is appropriate;
       2. The transfer from institutional care to an SCL placement is not
          opposed by the individual or his legal guardian; and
       3. The individual's SCL placement can be reasonably accommo-
          dated by the provider.
2. [Emergency hospitalization of the immediate care provider; or]
3. Other circumstances relating to the situation of the individual or
caregiver to be considered by the department on a case-by-case ba-
sis.
5. (ib) If multiple applications are received on the same arrival
date, a lottery shall be held to determine placement on the SCL wait-
ing list.
6. (ic) A written notification of the date and placement on the
   SCL waiting list shall be mailed to the individual or his legal represen-
tative and support coordination provider if identified.
7. (ig) Maintenance of the SCL waiting list. The department shall,
at least annually, update the SCL waiting list. An [The] individual on
   the SCL waiting list or his legal representative and his [the] support
   coordination provider shall be contacted in writing to verify the accu-
   racy of his [the] data on the SCL waiting list and to verify his [the] con-
   tinued desire to pursue placement in the SCL Program. The requested
   data shall be received by the department within thirty (30) days from
   the date of the letter, excluding holidays and weekends.
8. (id) Criteria for removal from the SCL waiting list. The removal
   of an individual from the waiting list shall not prevent the submittal of a
   new application at a later date for the individual.
   (a) The criteria for removal from the waiting list shall be:
      1. After a documented attempt, the department is unable to locate
         the individual or his legal representative;
      2. SCL placement for services is offered and the individual or his
         legal representative refuses the offer of placement or does not, without
         good cause, complete the application process with the department
         within sixty (60) days of the placement allocation date; or
      3. The individual is deceased.
   (b) If an [the] individual is removed from the SCL waiting list, writ-
   ten notification shall be mailed by the department to the individual or
his legal representative and the SCL coordination provider.

Section 7. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) A decision to terminate an individual from receiving SCL services or to reallocate placement subject to appeal shall not be final until an order is issued in accordance with 907 KAR 1:563.


(2) It 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. to 4:30 p.m.

DENNIS BOYD, Commissioner
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: August 4, 2000
FILED WITH LRC: August 11, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Karen Doyle or Sharon Rodriguez
(1) Provide a brief summary of: 907 KAR 1:145E
(a) What this administrative regulation does: This administrative regulation establishes covered SCL services, coverage provisions, and provider qualifications.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to define covered SCL services, SCL recipient criteria, and provider qualifications.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Establishing covered SCL services, coverage provisions, and provider qualifications fall within the jurisdiction of KRS 194A.030 and 194A.050 which grant DMS and the Cabinet for Health Services the authority to promulgate administrative regulations on the subject of SCL services.
(d) How this administrative regulation currently assist or will assist in the effective administration of the statutes: This administrative regulation will, in accordance with the authorizing statutes, establish covered SCL services, coverage provisions, and provider qualifications.

(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 administrative regulation allocates SCL slots by region.
(b) The necessity of the amendment to this administrative regulation: The amendments to the administrative regulation must be made to comply with KRS 205.6317. The amendments will allow the SCL slots to be allocated throughout the state in a more equitable manner.
(c) How the amendment conforms to the content of the authorizing statutes: The amendments to the administrative regulation establish a new SCL slot allocation procedure in accordance with KRS 205.6317.
(d) How the amendment will assist in the effective administration of the statutes: These amendments shall assist in the effective administration of the statutes by having the SCL slot allocations based on each region's percent of total state population, in accordance with KRS 205.6317.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The changes in this administrative regulation will affect all SCL service providers and SCL service recipients.

(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: DMS estimates SCL services will be beneficially impacted by the implementation of this administrative regulation, because the SCL slot allocation will become regionalized. DMS conferred with the Kentucky Commission on Services and Supports for Individuals with Mental Retardation as well as SCL providers and they endorsed it.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: This administrative regulation has a companion regulation, 907 KAR 1:155E, Payments for SCL services, which will have an initial cost for SFY 2001 estimated to be $67,993,929 with a continuing annual increase of $16,622,886.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds ($11,727,445) authorized under Social Security Act, Title XIX and matching funds ($4,895,440) of general and agency fund appropriations.

(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 of it is an amendment: There will be no increase in fees or funding to this administrative regulation as funding was included in the enacted budget.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not implement any fee or directly increase any fee.

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 1:155E

This emergency administrative regulation is being promulgated to establish a reimbursement methodology for the Supports for Community Living (SCL) Waiver Program to conform with KRS 205.6317. HB 144 of the 2000 Session of the General Assembly mandates the filing of this administrative regulation on an emergency basis and the SCL Commission appointed by the Governor has recommended that this administrative regulation’s provisions be implemented immediately. This emergency administrative regulation differs from the emergency administrative regulation filed on July 10, 2000 in that it implements the provisions of HB 144, Section 4(3) of the 2000 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
Long Term Care Division
(Emergency Amendment)

907 KAR 1:155E. Payments for supports for community living services for an individual [individually] with mental retardation or a developmental disability [disabilities].

RELATES TO: KRS 205.520, 42 CFR 441, Subpart G, 42 CFR 447.272, 42 USC 1396a, b, d, n
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520, 205.6317

EFFECTIVE: August 11, 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 citizen. This administrative regulation establishes the coverage provisions relating to home and community based waiver services provided to an individual with mental retardation or a developmental disability as an alternative to placement in an intermediate care facility for an individual with mental retardation or a developmental disability.

- 717 -
VOLUME 27, NUMBER 3—SEPTEMBER 1, 2000

Section 1. Definitions. (1) "Capital indebtedness" means a long-term debt that is paid in more than one (1) year. "Annualized upper limit" means the aggregate amount reimbursed to the SCL provider 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 OCL provider and submitted with the cost report.

(3) "Current indebtedness" means a short-term debt that is paid in less than one (1) year.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Support needs assessment profile" or "SNAP" means a standardized tool used for the measurement of supportive services needed by an individual with a disability.

(6) "SCL" means community-based waiver services for an individual with mental retardation or a developmental disability.

(7) "Upper limit" means the aggregate amount reimbursed to SCL providers not to exceed a twelve (12) month calendar period.

Section 2. Coverage. (1) The department shall reimburse a participating provider of SCL for a covered service, as defined in subsection (2) of this section, 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 a 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 1:145E.

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 SCL cost report that shall be:

1. Completed in accordance with instructions for SCL cost reporting; and

2. Submitted by a provider with the financial information listing; and

(b) Allowable, as defined in Section 4(3) of this administrative regulation, reasonable, and necessary.

(2) Payment rate setting shall be as follows:

(a) Reimbursement shall be made using a projected rate per unit of service based on the most recent available annual cost report as of June 1 preceding the July 1 rate setting with cost trended and indexed through June 30 of the rate year; and

(b) Except as provided in Section 7(4) or 8(7) of this administrative regulation, reimbursement shall be retroactively adjusted to incorporate adjustments to the annual cost report as a result of an audit or desk review.

(3) Reimbursement for specialized medical equipment and supplies shall:

(a) Be unavailable through the Medicaid Durable Medical Equipment Vision, Hearing, or Dental Programs;

(b) Be ordered by a physician;

(c) Be specified in the plan of care; and

(d) Be a unit of service in which one (1) unit equals one (1) item; and

(e) Be submitted on form MAP-95.

(4) Using the formula established in 42 CFR 441.303(f)(1) and applying SCL cost report data, the department shall set, effective July 1 each year, an upper limit to be applied to the total payments for SCL services.

(5) The department shall limit provider rates by a percentage which shall assure that total payments for a waiver year made for services provided to SCL recipients shall not exceed the upper limit. The same percentage shall be applied uniformly to ensure an even distribution of reimbursement to an SCL provider.

(6) For state fiscal years 2000 and 2001, the payment amount for SCL services shall be established pursuant to Sections 7 and 8 of this administrative regulation.

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 service</td>
<td>1 month</td>
</tr>
<tr>
<td>Residential care</td>
<td>24 hours</td>
</tr>
<tr>
<td>Community living</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Respite</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Community habilitation</td>
<td>15 minutes</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>15 minutes</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>
<tr>
<td>Vocational services</td>
<td>15 minutes</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, and

(c) Personal Emergency Response System usage.

(3) An SCL provider shall not round minutes nor hours up to make a unit of service.

Section 5. Payment Exclusions and Limitations. (1) A payment shall not include:

(a) Cost of room and board; or

(b) 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 that duplicates homecare and personal care services being provided by a family member; or

(b) A community habilitation provider for supported employment services for an individual receiving payment according to 29 USC 794, et seq.

(3) A provisory provider for an individual receiving payment according to 29 USC 794, et seq.

(4) An allowable cost for reimbursement shall:

(a) Be reflective of a provider's actual costs; and

(b) Be related to Medicaid patient care as defined in 42 CFR 413.9.

(5) The following shall be included in an SCL cost report:

(a) Costs to related organizations as defined in 42 CFR 413.17;

(b) Costs of educational activities as defined in 42 CFR 413.85;

(c) Research costs as defined in 42 CFR 413.90;

(d) Value of services of nonpaid workers as defined in 42 CFR 413.94;

(e) Purchase discounts and allowances, and refunds of expenses as defined in 42 CFR 413.98.

(f) Depreciation on a building or equipment if the cost is:

1. Documented in the provider's accounting records; and

2. Based on historical cost of the asset; or

3. If donated, the fair market value; or

4. Prorated over the estimated useful life of an 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

(i) Value of motor vehicles used by management personnel. The value shall be:

1. Limited to $20,000; or

2. In excess of $20,000 if the value is included in the salary compensation.

(5) The following shall be unallowable costs:
(a) The value of a service provided by an unpaid member of an organization who has an agreement with the provider to furnish a service at no cost;
(b) Political contributions;
(c) Legal fees for lawsuits against the Cabinet for Health Services;
(d) Legal fees incurred for an activity not related to SCL patient care;
(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 as salary compensation;
(g) Costs related to lobbying; or
(h) Residential room and board costs for an SCL recipient.

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) An SCL cost report and supporting documentation shall be subject to desk review or audit to determine if reported expenses are 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. Payment Amounts for State Fiscal Year (SFY) 2000.
For SFY 2000, the rate setting methodology for a participating in-state SCL provider that is certified in accordance with KAR 1:145 shall be as follows:
(a) The payment rate for a unit of service that was in effect for an individual provider of SCL services for the period ending June 30, 1999 shall be indexed for inflation by three and one-half (3.5) percent.
(b) Except for a service meeting the criterion of paragraph (c) of this subsection, the payment rate established in paragraph (a) of this subsection shall be increased by an additional three and one-half (3.5) percent.
(c) If the payment rate that was in effect for the period ending June 30, 1999 for an SCL service was less than the provider’s average unit cost that was utilized by the department to establish the payment rate for SFY 1999, the payment rate established pursuant to paragraph (a) of this subsection shall be increased by an additional four (4) percent for:
1. A community habilitation; or
2. A staffed residence.
(2) The payment rates that are established pursuant to subsection (1) of this section shall be arrayed to determine a weighted 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.
(3) A provider shall be reimbursed for a service specified in accordance with the methodology established in Section 3(3) of this administrative regulation.
(4) The reimbursement of an SCL service for SFY 2000 shall not be retroactively adjusted to incorporate an adjustment to the annual cost report resulting from an audit or desk review, except for computational errors.

(1) A prospectively-determined payment for a unit of service to a certified SCL provider shall include a base payment, and in accordance with subsections (5) and (6) of this section, an incentive payment and an intensity payment.
(2) Effective September 1, 2000, the prevacllual rate shall be equal to the rate established for a supported employment service.
(3) A base payment for a unit of service shall be determined as follows:
(a) A provider with a SFY 2000 rate based on a desk reviewed or audited SFY 1997 cost report shall receive a base payment calculated as the provider’s SFY 2000 rate indexed for inflation by three (3) percent.
(b) A provider with a SFY 2000 rate based on an SFY 1997 prospective cost report shall receive a base payment calculated using the provider’s desk reviewed or audited SFY 1997 cost report rate, trended and indexed for inflation through SFY 2000, and indexed by three (3) percent.
(c) A provider with a SFY 2000 rate based on 115 percent of the weighted median shall receive a base payment calculated as the provider’s SFY 2000 rate indexed for inflation by three (3) percent.
(d) A new provider who did not offer SCL services prior to July 1, 2000 or a current provider who offers an SCL service that was not offered by that provider prior to July 1, 2000 shall receive a base payment calculated as 120 percent of the weighted median determined in accordance with subsection (4) of this section.
(4) The payment rates that are established pursuant to subsection (2)(a) of this section shall be arrayed in ascending order to determine a weighted median rate based on SFY 1999 paid claim units of service for each SCL service.
(5) An incentive payment for a unit of service shall be:
(a) Made if:
1. A provider’s rate for a unit of service is below 110 percent of the weighted median; and
2. The service is provided to a recipient who was approved by the department to begin receiving SCL waiver services on or after July 1, 2000.
(b) Calculated as twenty (20) percent of the difference between 110 percent of the weighted median and the provider’s rate.
(6) An intensity payment for a unit of service shall be:
(a) Made if a recipient has a score on a SNAP equal to or greater than the threshold score established by the department in accordance with Section 3(4) of this administrative regulation.
(b) For the following SCL services:
1. Staffed residence;
2. Community living;
3. Respite;
4. Family home;
5. Group home; and
6. Community habilitation.
(7) Except for staffed residence, an intensity payment for services listed in subsection (5)(b) of this section shall be calculated as fifteen (15) percent of the weighted median for a unit of service.
(8) An intensity payment for staffed residence shall be calculated as twenty (20) percent of the weighted median for a staff residence unit of service.
(9) A provider shall be reimbursed for services specified in and pursuant to the methodology established in Section 3(3) of this administrative regulation.
(10) The reimbursement payment of a SCL service for SFY 2001 shall not be retroactively adjusted to incorporate an adjustment to the annual cost report resulting from an audit or desk review, except for computational errors.
(11) A base, incentive, and intensity payment for an SCL service provided to a qualified recipient shall be made for services provided on or after July 1, 2000.

Section 9. Support Needs Assessment Profile (SNAP). (1) A recipient of an SCL waiver service shall have a SNAP administered by the department by an individual not employed by or under contract with an SCL service provider.
(2) A new SNAP may be administered:
(a) At the department’s discretion; or
(b) At the request of an SCL provider when a change in a recipient’s circumstances results in the need for increased or decreased supportive services.
(3) A provider shall be responsible for the cost of additional SNAPs made in accordance with subsection (2)(b) of this section.
(4) A threshold score shall be established by the department prior to December 31, 2000, and provide that no more than ten (10) percent of SGL recipients exceed the threshold score.

Section 10. Appeal 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 an ICF/MR level of care or services to a Medicaid beneficiary shall be in accordance with 907 KAR 1-663.

(3) An appeal of a negative action regarding Medicaid eligibility of a recipient shall be in accordance with 907 KAR 1-660.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:
   (b) “Instructions for SGL Cost Reporting”, Department for Medicaid Services, December 1999 edition;
   (c) “Financial Information Listing”, Department for Medicaid Services, March 2000 edition; and
   (d) “MAP-95” Commonwealth of Kentucky, Cabinet for Human Resources, Department for Medicaid Services Request for Equipment Form.

(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. to 4:30 p.m. (Coverage: (1) The department shall reimburse a participating provider of SGL 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 SGL level of care 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 (2) of this section, a participating in-state SGL 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 SGL Cost Reporting; and
   (c) Submitted by the provider with the Financial Information Listing.

(2) Payment rate setting shall be as follows:
   (a) Reimbursement shall be made using a projected rate per unit of service based on the most recent available annual cost report as of June 1 preceding the July 1 rate setting with cost trended and indexed through June 30 of the rate year; and
   (b) Except as provided in Section 8(4) or (9)(4) of this administrative regulation, reimbursement shall be retroactively adjusted to incorporate adjustments to the annual cost report as a result of an audit or desk review.

(3) Reimbursement for medical services, dentures, eyeglasses, or hearing aids shall be paid:
   (a) Pursuant to 907 KAR 1-630; 907 KAR 1-626; 907 KAR 1-631; or 907 KAR 1-610, whichever is applicable;
   (b) Apart from the services paid through the cost report; and
   (c) If the item is:
      1. Prescribed for a recipient by a physician as necessary for an individual’s habilitation; and
      2. Not otherwise covered by Medicaid;

(4) Utilizing the formula established in 42 CFR 441.380(f)(1) as a guideline and applying accumulated statistical data, the department shall set, effective July 1 each year, an annualized upper limit to be applied to the total payments for SGL services.

(5) The department may reduce established rates or limit new rates by a percentage amount which assures that the total payments to a provider are not in excess of the annualized upper limit. A reduction factor shall be applied in a manner as to ensure an even flow of reimbursement to an SGL provider through the year.

Section 4. Units of Service. (1) The units of service shall be as follows:

<table>
<thead>
<tr>
<th>Type of Service</th>
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</tr>
</thead>
<tbody>
<tr>
<td>SGL coordination services</td>
<td>1 month</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>Psychological services</td>
<td>15 minutes</td>
</tr>
</tbody>
</table>

(2) An SGL 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;
   (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 SGL 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 20 USG 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 410.9.

(4) The following costs shall be allowable:
   (a) Costs related to organizations pursuant to 42 CFR 410.17;
   (b) Costs of educational activities pursuant to 42 CFR 410.85;
   (c) Research costs pursuant to 42 CFR 410.90;
   (d) Value of services of nonpaid workers pursuant to 42 CFR 410.94;
   (e) Purchase discounts and allowances; and refunds of expenses pursuant to 42 CFR 410.98;
   (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 donated, the fair market value; or
      3. Prorated over the estimated useful life of the asset using the straight-line method;
   (g) Interest on current and capital indebtedness;
   (h) Professional services of full-time or regular part-time employees not to exceed what a prudent buyer would pay for comparable services; or
   (i) Value of motor vehicles used by management personnel.

- 720 -
2. In excess of $20,000 if the value is considered part of salary compensation:
(a) The following shall not be allowable costs:
(b) The following shall not be allowable costs:
(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 SGL 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;
(h) Residential and board costs for SGL clients.

Section 6. Auditing and Reporting. (1) A participating provider shall maintain fiscal and service records for a period of not less than five (5) years.
(2) The Department of Health and Human Services, Health Care Financing Administration;
(3) The General Accounting Office;

Section 7. Appeals Rights. (1) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:677.
(2) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

Section 9. Payment Amounts for State Fiscal Year (SFY) 1999:
(1) For SFY 1999, the rate setting methodology for a participating in-state SGL 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 SGL services for the period ending June 30, 1999 shall be indexed for inflation by three and one-half (3½) percent;
(b) Except for a service meeting the criteria 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 (3½) percent;
(c) If the payment rate that was in effect for the period ending June 30, 1999 for an SGL 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;
2. A staffed residence;
(d) The payments 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 SGL services prior to July 1, 2000;
(b) A current provider who offers an SGL service that was not offered prior to July 1, 2000;
(c) 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 SGL provider of the:
(a) Additional funding available to SGL providers to compensate for the federally mandated minimum wage increase; and
(b) Procedures for Applying the Minimum Wage Increase.
(2) An SGL provider shall, for each employee affected by the increase:
(a) Submit the completed form to the department within forty-five (45) days;
(b) Submit payroll records to the department as documentation;
(c) The minimum wage pool shall:
1. Not exceed $250,000; and
2. Be prorated among all SGL providers qualifying for participation in the pool;
(d) The minimum wage costs shall be limited to:
1. Amounts not included in the SFY ending June 30, 1997 - SGL provider cost reports used to set the base rate for each service included in the SFY 1999 and SFY 2000 payment rates; and
2. 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, 1999 for each service.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Supports for Community Living Cost Report", Department for Medicaid Services, December 1999 edition;
(b) "Institutional Cost Report", Department for Medicaid Services, December 1998 edition;
(c) "Financial Information Listing", Department for Medicaid Services, March 2003 edition;
(d) "Procedures for Applying the Minimum Wage Increase," De-
(e) "Supports for Community Living Minimum Wage Impact Form", Department for Medicaid Services; March 2006 edition; and

(f) "Instructions for Completing Minimum Wage Impact Form", Department for Medicaid Services; March 2006 edition.

(2) This material may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DENNIS BOYD, Commissioner
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: August 9, 2000
FILED WITH LGC: August 11, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Karen Doyle or Sharon Rodriguez
(1) Provide a brief summary of: 907 KAR 1:155E

(a) What this administrative regulation does: This administrative regulation establishes the reimbursement methodology for supports for community living (SCL) waiver program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to reimburse SCL providers and to thus insure that Medicaid recipients receive SCL services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This emergency administrative regulation establishes reimbursement for SCL services. Reimbursement for those services falls within the jurisdiction of KRS 194A.030, and 194A.050, which grant Department for Medicaid Services (DMS) and the Cabinet for Health and Services the authorization to promulgate administrative regulations on the subject of SCL reimbursement.

(d) How this administrative regulation currently exists or will assist in the effective administration of the statutes: This administrative regulation will, in accordance with the authorizing statutes, establish a reimbursement methodology for SCL service providers, and thus provide SCL services to Medicaid recipients as authorized by statute.

(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 administrative regulation establishes a new reimbursement methodology for SCL services and establishes a reimbursement rate for SCL recipients who meet the criteria of being high intensity.

(b) The necessity of the amendment to this administrative regulation: The amendments to the administrative regulation must be made to comply with KRS 205.6317. HB 144 of the 2000 Session of the General Assembly mandates that these amendments be implemented on an emergency basis.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments to the administrative regulation establish a new and more equitable reimbursement for SCL services in accordance with KRS 205.6317.

(d) How the amendment will assist in the effective administration of the statutes: These amendments shall assist in the effective administration of the statutes by implementing a more equitable reimbursement for SCL service providers and will do so in accordance with KRS 205.6317.

(3) List the types and number of individuals, businesses, organizations, state and local government affected by this administrative regulation: The changes in this administrative regulation will affect all SCL service providers.

(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: DMS estimates SCL service providers will be beneficially impacted by the implementation of this administrative regulation because reimbursement will be more equitable for SCL services. DMS conferred with the Kentucky Commission on Services and Supports for Individuals with Mental Retardation as well as SCL providers and they endorsed it.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: Department expenditures for SFY 2001 cost are estimated to be $67,993,929.

(b) On a continuing basis: With an annual increase of $16,622,886.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act Title XIX and State matching funds from general fund and restricted fund appropriations are the funding sources to be used to implement and enforce this administrative regulation.

(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 no increase in fees or funding to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not implement any fee or directly increase any fee.

(9) 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 1:170E

This emergency administrative regulation is being promulgated to establish a new reimbursement methodology for Adult Day Health Care (ADHC) services and to establish a reimbursement rate for ADHC services provided to individuals who meet the criteria for being developmentally disabled. These provisions will be established to support the scope of services as provided in SB 100 of the 2000 Session of the General Assembly. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because ADHC service providers would be inadequately reimbursed, thus jeopardizing their ability to provide services to Medicaid recipients.

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 Long Term Care
(Emergency Amendment)

907 KAR 1:170E. Payments for home and community based services.

RELATES TO: 42 CFR 441 Subpart B, G, 42 USC 1396a. b, d, n
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520
EFFECTIVE: July 21, 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 method for determining amounts payable by the Medicaid Program for services provided by home and community based waiver service providers to an eligible recipient as an alternative to nursing facility care.

Section 1. Definitions. (1) "ADHC" means Adult Day Health Care.

(2) "ADHC center" means an Adult Day Health Care center:

(a) Licensed in accordance with 902 KAR 20:068; and

(b) Certified by the department for Medicaid participation.

(3) "DD" means "developmentally disabled.

(4) "Department" means the Department for Medicaid Services or
its designee,

(5) "HCBC" means home and community based.

(6) "Medically necessary" or "medical necessity" means that a covered benefit shall be:

(a) Provided in accordance with 42 CFR 440.239;
(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 be, if practical, 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(f) and 42 CFR Part 441 Subpart B for individuals under twenty-one (21) years of age.

(7) "Peer review organization" or "PRO" is defined in 42 CFR 442.101.

(8) "Recipient" means an individual who:

(a) Is eligible for Medicaid benefits; and

(b) Meets the criteria for HCBC waiver services as defined in 907 KAR 1:160.

(9) "Upper limit" means the maximum amount the department shall reimburse for a unit of service.

Section 2. Coverage. The department shall reimburse a participating HCBC provider for a service rendered to an eligible Medicaid recipient pursuant to 907 KAR 1:160.

Section 3. Payment Amounts for HCBC Covered Services. (1) An HCBC provider providing services to a recipient shall comply with the provisions established in 907 KAR 1:030, 907 KAR 1:031, 907 KAR 1:160, 907 KAR 1:671, 907 KAR 1:672, and 907 KAR 1:673.

(2) An HCBC provider shall be reimbursed:

(a) Using an interim payment method as defined in 907 KAR 1:031; and

(b) With a year-end settlement to the lower of actual costs or charges pursuant to 907 KAR 1:031 for the following HCBC services:

1. Assessment or reassessment;
2. Case management;
3. Homemaker; or
4. Personal care.

(3) An HCBC provider shall:

(a) Be reimbursed based on a prospectively set upper limit; and

(b) Be paid at a rate that is equal to the weighted median of an array of service costs.

(4) The department shall:

(a) Use the HCBC provider's most recent cost report data available as of May 31 to determine the rates for the next fiscal year which begins July 1;
(b) Update upper limits each July 1;
(c) Not apply the upper limits until a provider has participated in the program for two (2) fiscal years; and
(d) Apply limits in accordance with 907 KAR 1:031 to the provider's rate regardless of the time the provider has participated in the Medicaid Program.

(5) If a provider fails to submit a cost report to the department before May 31, the rates for HCBC services shall remain the same as the previous fiscal year.

(6) A respite care covered service shall:

(a) Be limited to $20.00 per day for a six (6) week period within a calendar year beginning January 1 through June 30 and July 1 through December 31;
(b) Not exceed $4,000 per calendar year for a period beginning January 1 through December 31; and

(c) Subject to a year-end cost settlement by the department:

1. To actual cost; or
2. Charges if lower,

(d) Be payable upon receipt of a claim by the department pursuant to 907 KAR 1:673 to an HCBC provider; and

(e) Be subject to the limitations established in paragraph (a) through (c) of this subsection.

(7) A minor home adaptation to a recipient's home shall be pursuant to 907 KAR 1:160.

(8) A minor home adaptation shall be:

(a) Paid on the basis of actual billed charges;
(b) Paid a maximum of $500 per calendar year beginning January 1 through December 31 for a minor modification to a recipient's home;
(c) Paid the actual cost of the minor home adaptation, plus actual overhead costs incurred by the provider not to exceed twenty (20) percent of cost; and

(d) Subject to a year-end settlement by the department:

1. To the actual costs; or
2. To charges, if lower.

(9) An attendant care service shall be reimbursed on a fee for service basis at the lower of reasonable cost or charge not to exceed the Medicaid upper limit of eleven (11) dollars and fifty (50) cents per unit of service in accordance with 907 KAR 1:160.

(10) Costs of an attendant care service shall be reported as a nonreimbursable cost in an HCBC provider's cost report.

(11) Cost of attendant care is not subject to year-end cost settlement.

(12) Attendant care shall be limited to forty-five (45) hours per week and travel time for an attendant shall not be included in a unit of service.

Section 4. Audits of HCBC Waiver Providers. HCBC waiver cost reports shall be audited, as deemed necessary, by the department and to ensure that final payment to a provider is made in accordance with 907 KAR 1:031.

Section 5. Payment for an Adult Day Health Care Service. (1) The department shall reimburse for a service provided in an ADHC center at the lesser of the usual and customary charges or at the upper limit per unit of service and payments shall be made directly to the ADHC center.

(2) The Medicaid upper limit for a Level I ADHC basic unit of service shall be twenty-eight (28) dollars per unit, not to exceed fifty-six (56) dollars per day per recipient, and an ADHC basic daily service shall:

(a) Consist a care for one (1) recipient;
(b) Be a minimum of three (3) hours per day for one (1) unit except if the recipient has qualified the ADHC center for a minimum of two (2) hours prior to leaving the center due to a documented illness or emergency;
(c) Be a minimum of six (6) or more hours for two (2) units; and
(d) Not exceed two (2) units per day.

(3) Level II reimbursement of thirty-four (34) dollars per basic unit of service payment may be requested by an ADHC center if the ADHC center meets Level I criteria and includes the following additional criteria:

(a) Based on an average daily census of recipients receiving services from the ADHC center for the current quarter, the average daily census shall be limited to recipients designated as:

1. "Home and Community Based Waiver";
2. "Private pay"; or
3. Covered by insurance;
(b) An ADHC center shall have a minimum of eighty (80) percent of its recipients meet the criteria for DD as established in Section 6 of this administrative regulation; and

(c) If the ADHC center does not meet the Level II requirements as defined in Section 6 of this administrative regulation, the ADHC center shall be reimbursed at a Level I payment rate for the quarter following the quarter in which the ADHC center requested Level II reimbursement.

(4) To qualify for Level II reimbursement, an ADHC center that was not a Medicaid provider before July 1, 2000 shall:

(a) Have an average daily census of twenty (20) recipients who meet the criteria established in subsection (3)(a) of this section; and
(b) Have a minimum of eighty (80) percent of its recipients meet
the definition of DD as established Section 6 of this administrative regulation.

(5) To qualify as an ancillary therapy service a service shall be:
(a) Medically necessary;
(b) Ordered by a physician; and
(c) Provided by a qualified therapist as defined in 097 KAR 1:160
and limited to:
1. Physical therapy;
2. Occupational therapy; or
3. Speech therapy.
(6) Ancillary therapy service reimbursement shall be:
(a) Per recipient per encounter; and
(b) At the lesser of the usual and customary charges or up to the
Medicaid upper limit of seventy-five (75) dollars per encounter per
recipient.

7 A respite service shall meet the following criteria:
(a) It shall be provided on site in an ADHC center;
(b) It shall be reimbursed pursuant to 907 KAR 1:160;
(c) One (1) respite service unit shall equal one (1) hour and one (1)
hour and fifty-nine (59) minutes; and
(d) The length of time a recipient receives a respite service shall be:
1. Documented; and
2. Included in the recipient’s respite service hours limit pursuant to
907 KAR 1:160.

Section 6. Criteria for Developmental Disability ADHC Level II
Reimbursement. (1) To qualify for Level II reimbursement an ADHC
center shall meet the requirements established in Section 5 of this
administrative regulation and
(2) Eighty (80) percent of its ADHC service recipients shall have:
(a) A disability that has manifested itself before an individual
reaches twenty-two (22) years of age;
(b) A disability that constitutes a substantial disability; and
(c) A disability that shall be attributable to mental retardation or a
related condition which shall include:
1. Cerebral palsy;
2. Epilepsy;
3. Autism; or
4. A neurological condition that results in impairment of general
intellectual functioning or adaptive behavior which significantly limits
the individual in two (2) or more of the following skilled areas:
(a) Communication;
(b) Self-care;
(c) Home living;
(d) Social skills;
(e) Community use;
(f) Self-direction;
(g) Health and safety;
(h) Functional academics;
(i) Leisure or
(j) Work; and
(d) An adaptive behavior limitation similar to that of a person with
mental retardation, including:
1. A limitation that directly results from or is significantly influenced
by substantial cognitive deficits; and
2. A limitation that may not be attributable to only a physical or
sensory impairment or mental illness.

Section 7. The Assessment Process for Level II ADHC Reim-
bursement. (1) To apply for Level II ADHC reimbursement, an ADHC
center shall contact the PRO on the 15th of the month prior to the end of
the quarter.
(2) The PRO shall be responsible for randomly determining the
date each quarter for conducting a Level II assessment of an ADHC
center.
(3) In order to qualify for Level II reimbursement, an ADHC center
shall document on a MAP-1021 form that it meets the criteria for Level
II reimbursement established in Section 6 of this administrative regu-
lation.
(4) A MAP-1021 form completed by an ADHC center shall be
received by the PRO at least ten (10) working days prior to the end of
the preceding quarter in order to be approved for Level II reimburse-
ment.
(5) The PRO shall review the records of the ADHC center’s recip-
ients listed on the Map-1021 form and determine if the ADHC center
qualifies for Level II reimbursement.
(6) If an ADHC center disagrees with the determination of the
PRO, the ADHC center may request a reconsideration of the assessment.
A request for reconsideration of an assessment shall be sub-
mited to the PRO and shall:
(a) Be received in writing;
(b) Be postmarked within seven (7) days of the determination by
the PRO;
(c) Be made by completing a Map-575 form attached with an
explanation of the reasons for requesting the reconsideration;
(d) Include a copy of the original assessment with the areas of
disagreement circled; and
(e) Include any documentation that supports the request for re-
consideration.
(7) A reconsideration of a Level II assessment shall not be made
unless the issues being contested have the potential of changing the
overall percentage of recipients who meet the criteria specified in
Section 5(2)(b) of this administrative regulation.
(8) The PRO shall conduct a reassessment of an ADHC center
concerning its eligibility for Level II reimbursement within seven (7)
days of the receipt of the request for reconsideration.
(9) The reconsideration shall be limited to factors having a bearing
on the Level II reimbursement criteria.
(10) The department shall review a sample of the PRO’s ADHC
center Level II assessment for monitoring purposes.

Section 8. Appeal of a Level II Reimbursement Assessment. A
Level II reimbursement assessment appeal shall be in accordance with
907 KAR 1:671.

Section 9. Incorporation by Reference. (1) The following material
is incorporated by reference:
(a) Map-1021, ADHC Payment Determination Form, August 2000
Edition.
(b) Map-575, Request for Reconsideration Resident Assessment
Classification Form, October 1997 Edition.
(c) "The Home Health and Home and Community Based Cost
(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.

[RELATES TO: KRS 205.509
STATUTORY AUTHORITY: KRS 194.050; EO 96-862
NECESSITY: FUNCTION, AND CONFORMITY: The Cabinet-for
Health Services; Department for Medicaid Services; has responsibility
to administer the Medicaid Program; Executive Order 96-862; effective
July 2; 1996; reorganized the Cabinet for Human Resources and
placed the Department for Medicaid Services and the Medicaid Pro-
gram under the Cabinet for Health Services; KRS 205.509 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 payment provisions applicable
to home- and community-based waiver services provided to an
eligible recipient as an alternative to nursing facility care.

Section 1. Definitions. (1) "Adult day health care center" means a
center licensed in accordance with 092 KAR 20:066.
(2) "Department" means the Department for Medicaid Services or
its designee.
(3) "HCB" means home and community-based.

Section 2. Coverage. (1) The department shall reimburse a par-
icipating provider of home and community based (HCB) services for a
service rendered to an eligible Medicaid recipient who:
(a) Meet patient status criteria for nursing facility care; and
(b) Is prior authorized for the HCB service.
(2) Coverage provisions shall be in accordance with 907 KAR
1:160.
Section 3: Payment Amounts for Covered Services. (1) A provider shall be paid using an interim payment method as defined in 907-KAR 1:002 with a year-end settlement to the lower of actual reasonable costs or charges utilizing Medicare principles of reimbursement, as established in 42 CFR 440 Subparts A-g for the following HGB services: 
(a) Assessment or reassessment;  
(b) Case management;  
(c) Homemaker services; and  
(d) Personal care services.  
(2) HGB services shall:  
(a) Be subject to a prospectively set upper limit with the upper limit set at 100 percent of the weighted average of all services costs using the most recent cost report available as of May 31 with the upper limits updated each July 1. This limit shall not apply until a provider participated in the program for two (2) full agency fiscal years. All other applicable limits shall apply;  
(b) The interim rate shall be derived by applying a reduction factor to current charges based on the difference between prior year allowable cost and charges. If a prior year’s costs and charges are not available, the interim rate shall be set at the department’s best estimate of current costs not to exceed charges based on payments made for similar services;  
(c) Respite care covered services shall be:  
(a) Limited to $4,600 per calendar year or $2,600 per six (6) month period within that calendar year for the period beginning January 1 through June 30 or July 1 through December 31;  
(b) The actual cost of the respite care services plus actual overhead costs incurred by the provider;  
(c) Subject to a year-end settlement to actual cost or charges if lower, not to exceed the upper limits;  
(d) Payable to a home and community-based care provider or licensed adult day health care center, per recipient, subject to the limitations established in paragraphs (a) through (c) of this subsection;  
(4) Minor home adaptations shall be:  
(a) Paid on the basis of actual billed charges;  
(b) Paid at a maximum of $500 per calendar year for modifications;  
(c) Appropriately prior authorized and provided prior to reimbursement;  
(d) Paid for the actual cost of the minor home adaptations; plus actual overhead costs incurred by the provider; and  
(e) Subject to a year-end settlement to actual costs, or charges if lower, not to exceed the upper limit;  
(5) Payment for attendant care services shall be based on a fee for service with a maximum fee set and reviewed periodically by the department. Costs of attendant care services shall be reported as a nonreimbursable cost in an HGB provider’s cost report and not subject to cost settlement. For a person receiving attendant care, the total waiver services cost shall not exceed the cost of an appropriate institutional alternative. Attendant care shall be limited to forty-five (45) hours per week;  
(6) Payment for adult day health care services;  
(a) Payment shall be made directly to a licensed participating adult day health care center on the basis of an interim rate with a year-end settlement to the lower of actual allowable costs or charges for adult day health care services.  
(b) The maximum daily reimbursement rate for an adult day health basic daily service unit shall be thirty-seven and one-half (37-1/2) percent of the average nursing facility reimbursement rate for routine services as established on July 1 of each year. An adult day health basic daily service unit shall care for one (1) patient for a minimum of three (3) hours per day up to a maximum of two (2) units which is six (6) or more continuous hours;  
(c) Payment for therapy services shall not exceed eighty (80) percent of the approved maximum reimbursement rate for therapy services under the home health program;  
Section 4: A home health agency providing HGB services to an eligible Kentucky Medicaid recipient shall comply with the provisions established in 907-KAR 1:030 and 907-KAR 1:031;  
Section 5: An audit of facility records shall be performed by the department as deemed necessary by the department to ensure that final payment is made in accordance with the payment provisions established in this administrative regulation;  
(2) It may be inspected, copied, or obtained at the Department for Medicaid Services; 275 East Main Street, Third Floor East; Frankfort, Kentucky; 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]
amendment.

(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; DMS estimates ADHC services will be beneficially impacted by the implementation of this administrative because they will be reimbursed more equitably for ADHC services. DMS conferred with the ADHCA concerning this new reimbursement methodology and ADHCA endorsed it.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: DMS estimates SFY 2001 expenditures for ADHC services to be $12.2 million, rendering this administrative regulation budget neutral. However, since utilization of this service is increasing, the actual cost may be higher.

(b) On a continuing basis: DMS estimates an annual expenditure increase of 3.1% due to inflation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act, Title XIX, and state matching funds from General Fund and Restricted Fund appropriations are the funding sources to be used to implement and enforce this administrative regulation.

(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 no increase in fees or funding to implement these amendments to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not implement any fee or indirectly increase any fees.

(9) 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 3:030E

This emergency administrative regulation is being promulgated to continue IMPACT Plus, a program that provides targeted-case management and rehabilitative services to Medicaid-eligible children who are institutionalized or are at risk of institutionalization. This amendment provides the regulatory authority for a Medicaid designated agent to determine eligibility and service authorization for the IMPACT Plus Program. This action must be taken on an emergency basis to insure equal access to medically necessary services to all citizens of the Commonwealth. 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 Behavioral Health Programs
(Emergency Amendment)

907 KAR 3:030E. Coverage and payments for Impact Plus services.

RELATES TO: KRS 205.520, 42 CFR 431.615, 440.130, 447 Subpart B, 42 USC 1396a, d, 1396a.

STATUTORY AUTHORITY: KRS 194A.030, 194A.050; 194A.956 Ky; Acts ch. 452, sec. 4(9).

EFFECTIVE: July 20, 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 provides for coverage and payments for Impact Plus services provided through an agreement with the state Title V agency, the Department for Public Health.

Section 1. Definitions. (1) "Behavioral health professional" means:

(a) Psychiatrist;
(b) Physician licensed in Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties;
(c) Psychologist licensed and functioning in accordance with KRS 319.050;
(d) Psychologist with autonomous functioning, certified and functioning in accordance with KRS 319.058;
(a) Clinical social worker licensed and functioning in accordance with KRS 335.100;
(f) Alcohol and drug counselor certified and functioning in accordance with KRS 313.042;
(g) Marriage and family therapist licensed and functioning in accordance with KRS 335.300;
(h) Professional counselor certified and functioning in accordance with KRS 335.350;
(i) Professional art therapist certified and functioning in accordance with KRS 309.136;
(j) Professional art therapist certified and functioning in accordance with KRS 309.060;
(k) "Behavioral health professional under clinical supervision" means:
(a) Psychologist certified and functioning in accordance with KRS 319.058;
(b) Psychological associate certified and functioning in accordance with KRS 319.064;
(c) Marriage and family therapist associate permitted and functioning in accordance with KRS 335.332; or
(d) Social worker certified and functioning in accordance with KRS 335.080;
(e) "Behavioral health organization" means:
(a) Hospital licensed and functioning in accordance with 902 KAR 20:05, 902 KAR 20:012 and 902 KAR 20:016 or 902 KAR 20:170 and 902 KAR 20:180;
(b) Community mental health center licensed and functioning in accordance with 902 KAR 20:091;
(c) Child-care facility licensed and functioning in accordance with 902 KAR 1:300;
(d) Child-placing facility licensed and functioning in accordance with 902 KAR 1:310;
(e) Organization accredited by the Joint Commission for the Accreditation of Healthcare Organizations or the Council on Accreditation of Services for Families and Children; or
(f) Facility, agency, institution, organization, or business that is approved by the Department for Community Based Services and Mental Health and Mental Retardation Services to provide a service covered by this administrative regulation using standards of participation approved by the department.

(4) "Collaborative service plan" means an individualized written plan that specifies a therapeutic intervention and other service that is required by a recipient and that meets the requirements of Section 5 of this administrative regulation.

(5) "Community mental health center" means the organization licensed and functioning in accordance with 902 KAR 20:091;

(6) "Department" means the Department for Medicaid Services or its designated agent.

(7) "Impact Plus" means a program of community based behavioral health services provided through an agreement between the department and the Department for Public Health.

(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,
cure, ameliorate pathology, 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 a medical reason rather than primarily for the convenience of the member, 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; and
(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.
(9) "Recipient" means a person who has applied for medical assistance and has been determined to meet applicable conditions for eligibility pertaining to Kentucky's Medicaid Program.
(10) "Subcontractor" means a person, a facility, agency, institution, organization, or business that is subcontracted by the Department for Community Based Services or the Department for Mental Health and Mental Retardation Services to provide a service in accordance with this administrative regulation.
(11) "Targeted-case management services" means a service provided pursuant to 42 USC 1396w.
(12) "Title V agency" means the Department for Public Health.

Section 2. Title V Interagency Agreement. Services provided pursuant to Section 6 of this administrative regulation shall be in accordance with an interagency agreement between the department and the Title V agency.

Section 3. Eligibility. A recipient under twenty-one (21) years of age shall be eligible to receive a medically-necessary service covered in Section 6 of this administrative regulation if the recipient;
(1) Is in the custody or under the supervision of the state or at risk of being in the custody of the state; and
(2) Meets one (1) of the following:
(a) Is in a hospital or psychiatric residential treatment facility and would meet the criteria of Section 4 of this administrative regulation if discharged;
(b) Is at risk of institutionalization as specified in Section 4 of this administrative regulation or
(c) Has been determined by the department, prior to the effective date of this administrative regulation, to be an individual at risk of institutionalization. IMPACT Plus eligibility and the prior approved services shall remain valid for the period of prior approval. The individual shall be reassessed if a service requires reauthorization or within ninety (90) calendar days from the effective date of this administrative regulation to determine continuing eligibility in accordance with Section 4 of this administrative regulation.
(3) Has been prior authorized by the department as eligible to receive IMPACT Plus services and continues to meet the eligibility criteria specified in this section.

Section 4. Criteria for At Risk of Institutionalization. (1) A recipient shall be at risk of institutionalization if the recipient:
(a) Has been individually assessed by a qualified behavioral health professional and determined to require immediate short-term residential crisis stabilization as the sole service in accordance with Section 6(15) of this administrative regulation; or
(b) Has a severe, persistent, clinically-significant behavioral health disorder, other than mental retardation, dementia, or a personality disorder, established in the "The Diagnostic and Statistical Manual of Mental Disorders, fourth edition", DSM IV; copyright © 1994, American Psychiatric Association published by the American Psychiatric Association; and
1. Has documentation of a severe behavioral health problem that has persisted in the home, school, or community setting during the past six (6) months; and
2. Requires a coordinated plan of medically-necessary community-based behavioral health services to prevent worsening of a behavioral health condition that may result in institutionalization for behavioral health services;
(2) A recipient shall be considered no longer at risk of institutionalization and not eligible for IMPACT Plus services if:
(a) A determination has been made by a qualified behavioral health professional that the only service required was immediate short-term residential crisis stabilization and a period of residential crisis stabilization was provided and the recipient no longer required such service, or ten (10) days of residential crisis stabilization has been provided, whichever occurs first; or
(b) The recipient no longer meets the criteria specified in subsection (1)(b) of this section.

Section 5. Standards for a Covered Service. (1) A service covered in accordance with Section 6 of this administrative regulation shall be prior authorized by the department based on documentation of medical necessity.
(2) A covered service shall be provided in the least confining setting appropriate for the required treatment or care.
(3) A covered service shall be provided by a qualified behavioral professional, behavioral health professional under clinical supervision, or a behavioral health organization.
(4) A covered residential service shall not be provided outside the geographical boundaries of Kentucky unless requirements listed in 907 KAR 3:035. Criteria for certification for out-of-state residential services for Medicaid-eligible children under twenty-one (21) have been met.
(5) Except for immediate residential crisis stabilization provided as the sole service pursuant to Section 4(1)(a) of this administrative regulation, a covered service shall be provided in accordance with a collaborative service plan, that:
(a) Supports the level and type of care to be provided;
(b) Is recommended by a team that shall include:
1. The parent, guardian, or caregiver for the recipient if the recipient is under age eighteen (18) years of age;
2. A behavioral health professional or a behavioral health professional under clinical supervision;
3. A provider of targeted-case management services as specified in Section 6(1) of this administrative regulation; and
4. A representative of one (1) of the following:
   a. The local education authority;
   b. The Department for Community Based Services;
   c. The Department for Juvenile Justice; or
   d. Another child serving organization that does not employ a person identified in this subsection;
(c) Describes a coordinated plan of medically necessary community-based behavioral health services that specifies an amount, scope, frequency, and duration sufficient to maintain the recipient in the community; and
(d) Identifies the following:
1. The goal for transitioning a recipient to a lower intensity of services;
2. A program of therapies, activities, interventions or experiences designed to meet the goal;
3. Interventions by caregivers in the home, school, and community setting that support a recipient's ability to be maintained in the community;
4. The behavioral health professional or behavioral health professional under clinical supervision who will manage the continuity of care; and
5. The action to be taken by the parent, guardian, or caregiver for the recipient in case of a crisis, including how to contact the targeted-case manager or another member of the team.

(a) A targeted-case management service shall be a set of activities that assist a recipient in accessing needed medical, social, educational, and other support services that shall include the following:
1. An assessment of family strengths and needs;
2. Assistance in developing, coordinating, and accessing services in the collaborative service plan;
3. Coordination of collaborative team meetings to develop, modify, and review a collaborative service plan;
4. Facilitation of the implementation of a collaborative service plan;
5. Four (4) documented contacts per month including one (1) face-to-face contact with a recipient and one (1) face-to-face contact
with a parent or guardian or primary caregiver;
5. Monitoring of a recipient's progress and advocating to ensure appropriate, timely, and effective treatment and support services;
6. Participation in the development of other human service plans for the recipient;
7. Development of an appropriate plan for discharge from IMPACT Plus services for a recipient nineteen (19) years of age or older;
8. Provision to a recipient of a list of subcontractors authorized to provide a service pursuant to a collaborative service plan for the purpose of selecting a provider.
9. Provision to a recipient of information about the availability of a service pursuant to 907 KAR 1:034 if a service pursuant to this administrative regulation is not available.
   (b) Targeted-case management shall not include:
      1. The actual provision of a treatment;
      2. An outreach activity to a potential recipient;
      3. An administrative activity associated with a Medicaid-eligibility determination or application processing;
      4. Institutional discharge planning;
      5. A transportation service; and
      6. A duplicate payment made to another public agency or private entity for the same purpose.
   (c) A provider of targeted-case management shall be a person who is employed by:
      1. The Department for Community Based Services (DCBS) as a case manager or social worker providing services to an individual in the custody of or under the supervision of DCBS;
      2. A community mental health center as a provider of targeted-case management services in accordance with 907 KAR 1:525; or
      3. A behavioral health organization if the person has:
         a. A bachelor of arts or sciences degree in a behavioral science from an accredited institution. A behavioral science shall include psychology, sociology, social work, human services, or special education;
         b. Completed one (1) year of postgraduate employment performing case management services or working directly with children. A master's degree in a behavioral science can substitute for the one (1) year of experience;
         c. Completed a case management training program provided by the Department for Mental Health and Mental Retardation Services within six (6) months of the date of employment; and
         d. Clinical supervision by a behavioral health professional, a behavioral health professional under clinical supervision, or a case manager who meets the requirements of this paragraph and has two (2) years of case management experience.
   (2) A behavioral health evaluation shall:
      a. Be a face-to-face evaluation of a recipient to assess a behavioral health disorder; and
      b. Be provided by a behavioral health professional.
   (3) An individual therapy service shall:
      a. Be a face-to-face behavioral health therapy service specified in the recipient's collaborative service plan and provided to an individual recipient.
      b. Be provided by an individual therapy service provider of a behavioral health professional or a behavioral health professional under clinical supervision.
   (4) A group therapy service shall be:
      a. A face-to-face behavioral health therapy service specified in the recipient's collaborative service plan and provided to the recipient in a group setting not to exceed eight (8) individuals; and
      b. Provided by a behavioral health professional or a behavioral health professional under clinical supervision.
   (5) A collateral service shall be:
      a. A face-to-face behavioral health consultation with a parent, legal representative, school personnel, or other person with custodial control or supervision of the recipient;
      b. Provided in accordance with a recipient's collaborative service plan; and
      c. Provided by a behavioral health professional or a behavioral health professional under clinical supervision.
   (6) A therapeutic child support service:
      a. A therapeutic child support service shall be a therapeutic service provided in accordance with the collaborative service plan to assist the family or recipient in understanding, treating, identifying, or coping with the recipient's behavioral health disorder.
      b. A therapeutic child support service shall be provided directly to a recipient or family or to a group of recipients or families and shall include:
         1. Formation and leadership of family support groups;
         2. Therapeutic intervention and support provided to a recipient transitioning to adulthood including:
            a. Assessment of a recipient's attitude for vocational or skill training;
            b. Monitoring of a recipient's progress toward transition; or
            c. Assistance with developing skills and emotional readiness for an independent living setting;
         3. Behavior management skills training including:
            a. Therapeutic intervention and support provided to a parent, guardian, or caregiver in implementing a behavioral management plan;
            b. Individual or group instruction for a recipient or parent, guardian, or caregiver on recognizing or coping with a recipient's disruptive behavior; and
            c. Training a recipient and parent, guardian, or caregiver about appropriate behavior and supportive adult intervention;
      4. In-home support including:
         a. Assessment of a recipient's living situation;
         b. Consultation in a recipient's home with a recipient or a recipient's parent, guardian, or caregiver;
         c. Training of a parent, guardian, caregiver, or a family member in therapeutic techniques; and
         d. Mentoring with a recipient to model appropriate social behavior or to assist a recipient with building social skills.
   (c) The provider of a therapeutic child support service shall be a person who is employed by a behavioral health professional or a behavioral health organization who meets the following minimum qualifications for providing:
      1. A professional support service:
         a. A bachelor's degree from an accredited academic institution or be a registered nurse licensed in accordance with KRS 314.041;
         b. Three (3) years experience working with children who have behavioral health needs;
         c. Sixty (60) hours of training in children's behavioral health or three (3) college level credits from an accredited academic institution in courses related to child development or services to children;
         d. Is directly supervised by a behavioral health professional or a behavioral health professional under clinical supervision and
         e. Shall receive clinical supervision at least twice per month, with individual face-to-face clinical supervision at least once per month; or
      2. A paraprofessional support service:
         a. High school or general equivalency diploma;
         b. One (1) year of documented supervised experience working in a human service program or one (1) year of college;
         c. Supervision by a behavioral health professional, behavioral health professional under clinical supervision, or a person who meets the requirements in paragraph (c)(1) of this subsection to provide a professional support service; and
         d. If the service is provided one (1) on one (1) to a recipient without being directly supervised, six (6) months documented experience working with children in a supervised program setting.
   (f) A parent-to-parent support service:
      a. A parent-to-parent support service shall be provided face to face to a recipient's parent, guardian, or caregiver and shall consist of:
         1. Provision of information about IMPACT Plus services including how to effectively participate in the service planning process and how to access needed services, including emergency services;
         2. Assisting in advocating on behalf of the recipient;
         3. Provision of information regarding the nature, purpose, and anticipated benefits obtained from accessing targeted-case management and other IMPACT Plus services;
         4. Assistance in understanding how to implement and how to document implementation of the recipient's behavior management plan;
         5. Provision of information concerning the scope of responsibility of the principal child-serving agencies; and
         6. Assistance in the establishment of and maintaining linkages with formal and informal supportive services.
7. Assistance in the establishment of and sustainment of support groups for parents, guardians, and caregivers of recipients; or
8. Assistance in the development of and implementation of a plan to transition the recipient from IMPACT Plus services.

(b) A parent-to-parent support service shall be provided in accordance with the collaborative service plan by the parent of a child who has a behavioral health disorder and who has received at least one (1) state-funded service for that child's disability and who:
1. Is employed by a behavioral health professional or behavioral health organization;
2. Is approved by the Department for Mental Health and Mental Retardation Services following completion of ten (10) hours of initial and continuing annual training; and
3. Is directly supervised by a behavioral health professional, behavioral health professional under clinical supervision, or a person who meet the requirements in paragraph (c) of this subsection to provide a professional support service; and
4. Shall receive clinical supervision at least twice per month, with individual face-to-face clinical supervision at least once per month.
(c) A provider of a parent-to-parent support service shall not be related to or living with the child receiving the parent-to-parent support service.

(b) An after school or summer program service.
(a) An after school or summer program service shall:
1. Consist of a structured comprehensive program of individual and group therapeutic activities that focus on the use of appropriate behavioral and social skills in group activities with other children that shall include the following:
   a. Individual and group therapy;
   b. Behavioral management or social skills training;
   c. Independent living skills training for youth fourteen (14) years of age and older;
   d. Scheduled activities to promote parent or caregiver involvement and to empower the family to meet the individual's needs; and
   e. The development with the individual and parent or caregiver of a crisis plan for nonprogram hours;
2. Be provided in accordance with the recipient's collaborative service plan; and
3. Have a minimum child-to-staff ratio of eight (8) children to two (2) staff. All psychotherapeutic activities shall be led by a behavioral health professional or behavioral health professional under clinical supervision.
(b) The provider of an after school or summer program service shall be a behavioral health professional or a behavioral health organization and shall have continuous on-site supervision by a behavioral health professional or a behavioral health professional under clinical supervision.

(b) A day treatment service shall consist of diagnostic, treatment, and rehabilitative services that are part of an organized, intensive behavioral health treatment program that shall:
(a) Have a unified policy and procedure approved by the local education authority and the provider of the day treatment service that shall address program philosophy, admission and discharge criteria, admission and discharge process, staff training and integrated case planning;
(b) Include the following:
   1. Psychotherapy;
   2. Behavior management or social skill training;
   3. Independent living skill training for youth fourteen (14) years of age and older;
4. Scheduled activities to promote parent or caregiver involvement and to empower the family to meet the individual's needs;
5. Services designed to explore and link with community resources before discharge and to assist the individual and family with transition to community services after discharge; and
6. The development with the individual and parent or caregiver of a crisis plan for nonprogram hours; or
(c) Be provided;
   1. In collaboration with the special education services of the local education authority; on school days or during the summer;
   2. In coordination with the recipient's individual educational plan and not an independent instruction; or
   3. By a behavioral health organization;
5. Under the supervision of a behavioral health professional;
6. Through a linkage agreement with the local education authority that specifies the responsibility of the authority and the provider for:
   1. Continuous on-site supervision by a behavioral health professional or a behavioral health professional under clinical supervision;
   2. Appropriately licensed teachers and provision for their professional development;
   3. Educational supports (classroom aides and textbooks);
   4. Educational facilities;
   5. Physical education and recreational therapies;
   6. Transportation; and
   7. Transition planning; and
6. In accordance with a recipient's collaborative service plan; or
7. Have a minimum child-to-staff ratio of eight (8) children to two (2) staff. All psychotherapeutic activities shall be led by a behavioral health professional or behavioral health professional under clinical supervision; and
(a) Exclude services covered by 907 KAR 1:716.
(b) A partial hospitalization service.
(a) A partial hospitalization service shall be provided in accordance with a recipient's collaborative service plan and shall consist of an organized, intensive treatment program having unified policies and procedures that shall:
1. Address program philosophy, admission and discharge criteria, admission and discharge process, staff training and integrated case planning;
2. Offer less than twenty-four (24) hour daily care five (5) to seven (7) days per week; and
3. Include the following:
   a. Daily oversight and management by a psychiatrist that includes daily communication with staff delivering direct services and face-to-face contact with the individual one (1) or more times per week;
   b. Continuous nursing coverage;
   c. Multidisciplinary treatment team;
   d. Rehabilitative therapy;
   e. Psychotherapy;
   f. Medication evaluation, education, and management;
   g. Behavior management or social skills training;
   h. Treatment-based schooling provided by the local education authority as required by law;
   i. Scheduled activities which promote family involvement; and
   j. The development with a recipient and parent or caregiver of a crisis plan for nonprogram hours.
(b) A provider of a partial hospitalization service shall be a hospital licensed in accordance with 902 KAR 20:009 and 902 KAR 20:016 or 902 KAR 20:170 or a community mental health center. The hospital or the community mental health center shall have a linkage agreement with the local education authority that specifies the responsibility of the authority and the provider for:
1. Continuous on-site supervision by a behavioral health professional;
2. Appropriately licensed teachers and provision for their professional development;
3. Educational supports (classroom aides and textbooks);
4. Educational facilities;
5. Physical education and recreational therapies;
6. Transportation; and
7. Transition planning.
(c) A provider of a partial hospitalization service shall have:
1. A minimum child-to-staff ratio of eight (8) children to two (2) staff. All psychotherapeutic activities shall be led by a behavioral health professional or behaviora health professional under clinical supervision; and
(d) A partial hospitalization service shall not include services covered by 907 KAR 1:715.

(11) An intensive outpatient behavioral health service.
(a) An intensive outpatient behavioral health service shall consist of a structured comprehensive behavioral health program of individual and group therapeutic activities provided in accordance with the re-
cipient’s collaborative service plan.

(b) A provider of an intensive outpatient behavioral health service shall have a minimum child-to-staff ratio of eight (8) children to two (2) staff, one (1) of whom shall be a behavioral health professional or behavioral health professional under clinical supervision.

(c) An intensive outpatient behavioral health service shall be provided at least three (3) times weekly for a minimum of two (2) hours per day by:

1. A behavioral health professional;
2. A behavioral health professional under clinical supervision;
3. A behavioral health organization; or
4. A facility licensed as a NATE or DATE intensive outpatient service provider in accordance with 902 KAR 1:130 or 902 KAR 1:240 within its scope of practice.

(14) A therapeutic foster care service.

(a) A therapeutic foster care service shall consist of twenty-four (24) hour therapeutic supervision and treatment in a family home by a therapeutic foster parent who shall:

1. Be employed or contracted and supervised by a child-placing agency licensed in accordance with 922 KAR 1:310;
2. Complete thirty (30) hours of preservice training using a curriculum approved by the Departments for Community Based Services and Mental Health and Mental Retardation Services;
3. Receive twenty-four (24) hours of continuing annual training related to the care of a child with complex treatment needs of which no more than six (6) hours shall be provided through individual consultation;
4. Daily implement and document the behavior management plans; and
5. Receive weekly face-to-face clinical supervision and support in the therapeutic foster care home by a behavioral health professional or a behavioral health professional under clinical supervision who is employed by the child-placing agency who shall develop and monitor an individualized behavior management plan that shall include:

a. A crisis plan that identifies a contact in the event of a crisis;
b. Identified supports for the foster parent such as a foster parent support group; and

c. A plan for the involvement and visitation of a recipient with the birth family, guardian, or other significant persons unless prohibited by the court, including overnight off-site family visits pursuant to the plan.

(b) A therapeutic foster care service shall be provided in accordance with the collaborative service plan.

(c) A subcontractor shall have a department approved reimbursement rate for a therapeutic foster care service that shall exclude the portion attributable to room and board.

(d) A charge for room and board shall not be included in a provider’s reimbursement for a therapeutic foster care service.

(13) A therapeutic group residential care service.

(a) A therapeutic group residential care service shall consist of twenty-four (24) hour therapeutic supervision and behavioral health treatment in a group residential facility that shall:

1. Include individual and group psychotherapy, behavior management, and social skills training, scheduled activities that promote family involvement, independent living skills for recipients ages fourteen (14) years of age and older, after school and summer programming, and services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services;
2. Receive weekly face-to-face clinical supervision and support by a behavioral health professional or a behavioral health professional under clinical supervision who is employed by a child-placing agency who shall develop and monitor weekly a residential treatment plan that includes an individualized behavior management plan, a crisis plan, and a plan for the involvement and visitation of the recipient with the birth family, guardian, or other significant persons unless prohibited by the court including overnight off-site family visits; and

3. Have professional and support staff that daily implement and document the behavior management plan.

(b) A therapeutic group residential care service shall be provided by:

1. A child-caring facility licensed in accordance with 922 KAR 1:300; or
2. A facility licensed as a NATE or DATE residential service provider in accordance with 902 KAR 1:100 or 902 KAR 1:230 within its scope of practice.

(c) A therapeutic group residential care service shall be provided in accordance with a collaborative service plan.

(d) A subcontractor shall have a department approved reimbursement rate for a therapeutic group residential care service that has excluded the portion attributable to room and board.

(e) A charge for room and board shall not be included in the provider’s reimbursement for a therapeutic group residential care service.

(f) The department shall not reimburse for after school and summer programs for children residing in therapeutic group residential care.

(14) Residential crisis stabilization service.

(a) A residential crisis stabilization service shall consist of a brief stay not to exceed ten (10) consecutive days in a structured community-based therapeutic environment that shall include:

1. Behavioral health assessment;
2. Psychosocial and other behavioral health interventions necessary to stabilize the crisis; and
3. Discharge planning to link a recipient with community services and supports.

(b) A residential crisis stabilization service shall be provided by:

1. A child-caring facility licensed in accordance with 922 KAR 1:300;
2. A facility licensed as a NATE or DATE residential service provider in accordance with 902 KAR 1:100 or 902 KAR 1:230 within its scope of practice;
3. A hospital licensed in accordance with 902 KAR 20:009 and 902 KAR 20:018 or 902 KAR 20:170; or
4. A community mental health center.

(c) A residential crisis stabilization service shall have a behavioral health professional with full-time clinical responsibility for the residential crisis stabilization program that shall have weekly face-to-face contact with the recipient. There shall be a behavioral health professional or a behavioral health professional under clinical supervision on site or on call at all times.

(d) Except as provided as the only service in accordance with Section 4(1)(a) of this administrative regulation, a residential crisis stabilization service shall be provided in accordance with a collaborative service plan.

(e) A subcontractor of a residential crisis stabilization service shall have a department approved reimbursement rate that shall exclude the portion attributable to room and board.

(f) A charge for room and board shall not be included in a provider’s reimbursement for a residential crisis stabilization service.

(15) A wilderness camp service.

(a) A wilderness camp service shall consist of a structured program of individual and group behavioral health activities that build social competencies, increase self-esteem, and assist recipients to learn and practice skills that provide for greater control of personal behaviors through overnight experiences in an outdoor environment.

(b) A wilderness camp service shall:

1. Be provided by a child-caring facility licensed in accordance with 922 KAR 1:300; and
2. Have continuous on-site supervision by a behavioral health professional.

(c) A wilderness camp service shall be provided in accordance with a collaborative service plan.

(d) A subcontractor shall have a department approved reimbursement rate for a wilderness camp service that shall exclude the portion attributable to room and board.

(e) A charge for room and board shall not be included in the provider’s reimbursement for a wilderness camp service.

Section 7. Provider Qualifications and Conditions for Participation. The following provider qualifications and conditions for participation shall apply for services provided in accordance with this administrative regulation.

(1) The Title V agency shall provide a service either directly or through an agreement with:

(a) The Kentucky Department for Community Based Services as the state agency responsible for the provision of child and adult pro-
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

and copying by department personnel or other agencies in accordance with Section 8 of this administrative regulation.

5. A subcontractor as part of an application process to provide services shall provide:
   (a) Verification of a state police records check or a signed release to enable the Department for Community Based Services and the Department for Mental Health and Mental Retardation Services to request a state police records check and payment for the cost of obtaining the records check; and
   (b) A program description for the provision of a service which shall list the service to be provided and shall describe for each service:
      1. Staff qualifications, supervision, and training;
      2. Oversight of staff and services by a behavioral health professional; and
      3. How the subcontractor will meet the requirements of Section 7(6)(c) of this administrative regulation.

6. The Departments for Community Based Services and Mental Health and Mental Retardation Services shall establish and annually evaluate a quality improvement program approved by the department that monitors and evaluates, on a continuing basis, access, continuity of care and behavioral health care outcomes relating to a service provided directly or by a subcontractor in accordance with this administrative regulation.

(a) The monitoring and evaluation shall be based upon:
   1. The recipient's demographic characteristics, risk factors, functional status, comorbidities and behavioral health status;
   2. The recipient's access to a service;
   3. Utilization and cost of a service;
   4. The recipient's satisfaction with a service; and
   5. Adverse incidents and complications.

(b) Behavioral health outcomes shall include:
   1. Reduction of behavioral disability and restoration of an individual to the highest possible functioning level; and
   2. Provision of a service in the least confining setting appropriate for the required treatment or care.

(c) A subcontractor of the Department for Community Based Services or the Department for Mental Health and Mental Retardation Services shall:
   1. Measure and report an outcome of the provision of a service;
   2. Have a program for the improvement of the quality of a service; and
   3. Monitor the utilization of a service.

7. A recipient shall be informed of the right to select, and shall select a subcontractor to provide a service covered by this administrative regulation from a list of subcontractors approved by the Department for Community Based Services or the Department for Mental Health and Mental Retardation Services to provide the service. For the purpose of selecting a provider of a service pursuant to this administrative regulation, a parent, custodial parent, parent exercising custodial control or supervision as defined in KRS 600.020; or agency with legal responsibility for an individual by virtue of voluntary commitment or an emergency or temporary custody order shall be allowed to act on behalf of the recipient.

8. A provider or subcontractor shall maintain documentation of services provided and billed for a minimum of five (5) years or until an audit dispute or issue is resolved, whichever is longer.

Section 8. Access to Records, Providers, and Recipients. (1) A provider or subcontractor shall provide to the department or a representative of an agency or office identified in subsection (4) of this section, upon request:
   (a) Medical records and other information maintained by the provider to document the service provided;
   (b) Information regarding a payment claimed by the provider for furnishing a service; and
   (c) Information documenting the cost of the service.

(2) The department shall have the right to inspect medical and other records on site or to require the provider or subcontractor to provide written or electronic documentation for review as determined to be appropriate by the department.

(3) The department shall have the right to interview recipients, parents, guardians, primary caregivers or current or previous provider or subcontractor with regard to a service provided in accordance
with Section 6 of this administrative regulation.

(4) Access to provider or subcontractor records relating to a service provided shall be provided to:
(a) A representative of the United States Department of Health and Human Services;
(b) The United States Attorney General’s Office;
(c) The state Attorney General’s Office;
(d) The state Auditor’s Office;
(e) The Office of the Inspector General; or
(f) The department.

Section 9. Reimbursement. Reimbursement shall be the documented cost for the direct provision of the service as specified in this section. The department shall not reimburse administrative and indirect overhead costs of the Departments for Public Health, Mental Health and Mental Retardation Services, or Community Based Services.

(1) Payment shall be based on actual expenditures incurred for the provision of the service by the Title V agency, the Department for Mental Health and Mental Retardation Services or the Department for Community Based Services.

(2) The Title V agency, the Department for Community Based Services and the Department for Mental Health and Mental Retardation Services shall maintain service and cost records to document that payments for services provided do not exceed cost.

(3) For a service provided through a subcontractor, the applicable state agency shall maintain records of the payment made to the subcontractor for a specific service and recipient which shall include:
(a) The recipient’s name;
(b) The recipient’s Medicaid identification number;
(c) Date, type, and amount of payment for the service; and
(d) Information necessary for the accountable administration of the program.

(4) The payment rate for a service to be provided by a subcontractor shall be negotiated between the provider and the subcontractor.

(a) A negotiated rate for a subcontracted service shall not be effective unless approved by the Department for Medicaid Services.

(b) To facilitate the negotiated rate approval process, the Department for Medicaid Services’ representative may participate directly in the negotiation process and review proposed subcontractor payment amounts prior to approval.

(c) Approval of a negotiated rate shall be requested in advance of the provision of a service. If it is urgent for a subcontractor to render a service prior to the Department for Medicaid Services’ approval of a negotiated rate, the subcontractor shall assume risk of nonpayment.

The subcontractor shall have thirty (30) calendar days to negotiate an approved rate before the service shall be considered a non-reimbursable service.

(5) A billable unit of service shall be:
(a) Fifteen (15) minutes for an individual therapy service; a group therapy service; or a collateral service;

(b) One (1) hour for a behavioral health evaluation, a therapeutic child support service, a parent-to-parent service, an after-school or summer program service, a day treatment service, a partial hospitalization service, or an intensive outpatient behavioral health service;

(c) One (1) day for a therapeutic foster care service, a therapeutic residential care service, a residential crisis stabilization service, or a wilderness camp service; or

(d) One (1) month for targeted-case management;

(6) The following costs shall not be reimbursed:
(a) Room and board; or
(b) Educational, vocational or transportation services.

(7) Failure to comply with the requirements established in this administrative regulation in the provision of covered services shall subject the provider or subcontractor to recoupment by the department.

Section 10. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.


(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. to 4:30 p.m. "Department" means the Department for Medicaid Services.

(3) "Impact-Plus" means the program of behavioral health services provided through an agreement with the state Title V agency.

(4) "Licensed practitioner of the healing arts" means a practitioner of the healing arts who is:
(a) Licensed in accordance with KRS 311-297; or
(b) Exempt from licensure pursuant to KRS 305.610(4);

(5) "Rehabilitative services" means medical or remedial services rendered by a licensed or other licensed or certified practitioner of the healing arts within the scope of his practice under state law for maximum reduction of a behavioral, disability and restoration of a recipient to his highest possible functional level;

(6) "Targeted-case management services" means a set of activities which assists an individual in accessing needed medical, social, educational, and other support services pursuant to KRS 42 USB 1096n.

(7) "Title V agency" means the Department for Public Health.

Section 2. Interagency Agreement Services Provided pursuant to Section 3 of this administrative regulation shall be in accordance with an interagency agreement between the department and the Title V agency.

Section 3. Coverage. Services provided shall be those that meet the terms of the agreement between the department and the Title V agency, which are appropriate for the reduction of behavioral disability and restoration of a recipient to his highest possible functional level, and which shall be within the following general areas:

(1) Targeted case management services provided to:
(a) A Medicaid-eligible child under the age of twenty-one (21) who meets the conditions and circumstances of Table 1-1 established in KARS 1-560.100 and is receiving case management services; or

(b) A Medicaid-eligible child under the age of twenty-one (21) who is at risk for institutionalization;

(c) A Medicaid-eligible child under the age of twenty-one (21) who is in an institutional setting.

(2) A service covered as a targeted case management service:
(a) May include:

1. Assessment of family strengths and needs;

2. Assistance in developing, coordinating, and accessing services in the individual service plan or family support plan;

3. Coordination of interagency team meetings to develop and implement family support plan;

4. Facilitation of the implementation of a child- and family-service plan;

5. Monitoring progress and performing advocacy to assure appropriate, timely, and productive treatment and support services; and

6. Participation in the development of other human-service plans for the child; and

(b) Shall not include:

1. The actual provision of treatment;

2. An outreach activity to a potential client;

3. An administrative activity associated with a Medicaid-eligibility determination or application processing;

4. Institutional discharge planning;

5. A transportation service; or
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

6: A duplicate payment made to another public agency or private entity for the same purpose;
(5) Rehabilitative services provided to:
(a) A Medicaid-eligible child under the age of twenty-one (21) who meets the conditions and circumstances of the Department for Community-Based Services established in 505 KAR Chapter 1 to be defined as a child;
1.a: In the custody of the state;
1.b: Under the supervision of the state; or
1.c: At risk of being in the custody of the state; and
2.a: In an institution; or
2.b: At risk of institutionalization; or
(b) A Medicaid-eligible child under age twenty-one (21) who is:
1.a: In an institution; or
1.b: At risk of institutionalization;
(4) A service covered as a rehabilitative service shall be one (1) of the following:
(a) Individual services;
(b) Group services;
(c) Collateral services;
(d) After school or summer program services;
(e) Day treatment services;
(f) Partial hospitalization services;
(g) Intensive out-patient services;
(h) Therapeutic foster care services;
(i) Therapeutic group residential care services;
(j) Residential crisis stabilization services;
(k) Wilderness camp;

Section 4: Provider Qualifications and Conditions for Participation: The following provider qualifications and conditions for participation shall be applicable for services provided pursuant to Section 3- of this administrative regulation:
(1) The Title V agency shall provide a service;
(a) Directly;
(b) Through agreement with the Kentucky Department for Community-Based Services as the state agency responsible for the provision of child and adult protective services; or
(c) Through agreement with the Kentucky Department for Mental Health and Mental Retardation Services as the agency responsible for oversight of mental health and substance abuse services in the state;
(2) A service which is provided directly by the Title V agency or by the Departments for Community-Based Services or Mental Health and Mental Retardation Services or a subcontractor shall meet the requirements established in the Impact Plus Manual for the service and shall include:
(a) A plan of care;
(b) Documentation of supervision of staff adequate to the service;
(c) Documentation of services provided;
(d) A provider or subcontractor shall maintain records adequate to document services provided;
(e) For not less than five (5) years; or
(f) Until any audit dispute is resolved if beyond five (5) years;

Section 5: Access to Records, Providers, and Recipients: (1) A provider or subcontractor shall provide to the department or a representative of an agency or office listed in subsection (4) of this section upon request:
(a) Information maintained by the provider to document the services provided;
(b) Information regarding a payment claimed by the provider for furnishing a service; or
(c) Information documenting the cost of the service;
(2) Inspection shall be on site or through the submission of written or electronic materials as determined to be appropriate by the department;
(3) The department may interview:
(a) Current or previous provider or subcontractor staff with regard to a service provided pursuant to Section 3- of this administrative regulation;
(b) A recipient or a targeted case management or rehabilitative service with regard to a service received pursuant to Section 3- of this administrative regulation;
(4) Access to provider or subcontractor records relating to a service provided shall be required for:
(a) A representative of the United States Department of Health and Human Services;
(b) The United States Attorney General's Office;
(c) The state Attorney General's Office;
(d) The state Auditor's Office; or
(e) The Office of the Inspector General;

Section 6: Reimbursement: Reimbursement shall be the documented cost for the direct provision of the service as specified in this section. The administrative and indirect overhead costs to the departments for Public Health, Mental Health and Mental Retardation Services or Community-Based Services shall not be reimbursed by the department:
(1) A payment shall be based on actual expenditures incurred for the provision of the service by the Title V agency or the Departments for Mental Health and Mental Retardation Services or Community Based Services;
(2) For a service provided directly by the Title V agency or by the Departments for Community-Based Services or Mental Health and Mental Retardation Services, the appropriate agency shall maintain service and cost records to document that payments do not exceed cost;
(3) For a service provided through a subcontract, the applicable state agency shall maintain records showing a payment made to a subcontractor on an individual client per service basis;
(4) The payment rate for a subcontractor provided service shall be negotiated between the provider and the subcontractor;
(a) A negotiated rate for a subcontracted service shall not be effective unless approved by the department;
(b) To facilitate the negotiated rate approval process, the department's representative may participate directly in the negotiation process and review proposed subcontractor payment amounts prior to approval;
(5) Depending on the service provided, a billable unit of service shall be in increments of:
(a) Fifteen (15) minutes;
(b) One (1) hour;
(c) One (1) day;
(d) One (1) month;

Section 7: Incorporation by Reference: (1) In Impact Plus Manual, Department for Medicaid Services, September 1998, is incorporated by reference;
(2) This material may be inspected, copied or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621; Monday through Friday, 8 a.m. to 4:30 p.m.;

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 20, 2000 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Karen Doyle or Sharon Rodriguez
(1) 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 505 KAR 3:030 establishes criteria for determining "at risk of institutionalization" and criteria for determining when a recipient is no longer eligible for IMPACT Plus services. It expands service-planning requirements, identifies additional requirements for service coverage, expands service definitions and service provision requirements, prohibits provision of services by specified groups, increases medical records requirements, increases reporting requirements and requires establishment of quality improvement programs by providers and subcontractors.
(b) The necessity of the amendment to this administrative regulation: The amended regulation is necessary to provide uniform access
to medically necessary services to the targeted population. It also provides the Department for Medicaid Services the necessary tools for monitoring services and to assure delivery of quality services to the targeted population.

(c) How the amendment conforms to the content of the authorizing statute: This amended regulation conforms to KRS 19A.050 because it provides for the administration of Title XIX of the Federal Social Security Act by the Department for Medicaid Services. The amended regulation provides governing rules for administering the IMPACT Plus Program. The amended regulation conforms to KRS 19A.050 by establishing necessary rules for administering the IMPACT Plus Program, a program necessary to protect, develop, and maintain the health of the individual citizens of Kentucky and to qualify for federal funds and to cooperate with other state agencies for the proper administration of the cabinet programs.

(d) How the amendment will assist in the effective administration of the statutes: The amended regulation assists in the effective administration of the authorizing statutes by establishing criteria for determining "at risk of institutionalization" which provides for uniform access to medically necessary services for the targeted population. It also establishes the necessary policy to protect the health of the individual citizens in Kentucky (within the targeted population). Finally, the amended regulation provides for cooperation with other state agencies, DMH/MRS and DCBS, utilizing their expertise and resources for the effective administration of cabinet programs.

(2) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The amendment to 907 KAR 3:050 affects approximately 1500 individuals currently receiving IMPACT Plus services, the Department for Mental Health and Mental Retardation Services (DMH/MRS), the Department for Community Based Services (DCBS), and approximately 300 subcontractors who currently provide direct services through the IMPACT Plus Program.

(3) Provide an assessment of how the above group or groups will be affected by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: The approximately 1500 individuals currently receiving services through the IMPACT Plus Program will be reassessed using the newly established criteria for determining "at risk for institutionalization." The reassessment will result in discontinuation of IMPACT Plus services for those individuals who no longer meet eligibility requirements and increases services planning requirements for those who continue to meet eligibility requirements. Increased services planning requirements may cause delay in provision of services or denial of services for some individuals. Subcontractors of IMPACT Plus services must meet expanded service provision and medical records requirements. They also must develop and implement quality improvement programs and develop systems for outcome measurement. DMH/MRS and DCBS, Medicaid providers of IMPACT Plus services, have additional tracking and reporting requirements, must develop and implement a quality improvement program and must develop an outcome measurement system.

(4) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No additional cost associated with the initial implementation of the amendment to this regulation.

(b) On a continuing basis: The management team of IMPACT Plus services considers budget neutrality of the IMPACT Plus Program. IMPACT Plus expenditures will be offset by decreases in current expenditures for in-state and out-of-state placements of children in psychiatric facilities, decreases use of other behavioral health services and against savings realized from a reduction of length of stay or intensity level of children in psychiatric facilities in Kentucky.

(5) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal and state matching funds. The amendment to this regulation will be budget neutral. Funding for this program was included in the enacted budget of the 2000 General Assembly.

(6) 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 amendment to 907 KAR 3:050 does not necessitate any increase in fees or require additional funding for implementation.

(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation does not establish any fees and does not directly or indirectly increase any fees.

(8) 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
908 KAR 3:050E

This emergency administrative regulation is being promulgated in accordance with KRS 13A.190. This administrative regulation is necessary in order to ensure that the facilities operated by the Cabinet for Health Services maintain the financial ability to care for the needs of the mentally ill and mentally retarded. The administrative regulation is not implemented immediately, facilities operated by the cabinet will suffer financial losses, which could reduce the level of patient care. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on March 23, 2000 as follows: 'revised per diem rates have been calculated' and upon audited Medicare and Medicaid cost reports for fiscal year 1999, treated and indexed for inflation. The revised per diem rates reflect the actual cost of services provided by each facility during fiscal year 1999, treated and indexed for inflation. This emergency administrative regulation will be replaced by an ordinary administrative regulation in accordance with KRS 13A.190. A notice of Intent for the ordinary administrative regulation is being filed concurrently with this emergency administrative regulation.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Mental Health/Mental Retardation Services
Division for Administration
(Emergency Amendment)

RELATES TO: KRS 210.710 to 210.770

NECESSITY, FUNCTION, AND CONFORMITY: KRS 210.720(2) requires the Secretary of the Cabinet for Health Services to establish the patient cost per day for board, maintenance and treatment for a [each] facility operated by the cabinet at frequent intervals which shall be the uniform charge for persons receiving those services. KRS 19A.050 (206.750) authorizes the secretary to promulgate administrative regulations. This administrative regulation establishes the patient cost per day for board, maintenance and treatment at facilities operated by the cabinet.

Section 1. Facilities with an All-Inclusive Per Diem Rate. The following facility shall charge an all-inclusive per diem rate for room and board and ancillary services. Physician services shall be charged on an individual basis as utilized:

<table>
<thead>
<tr>
<th>Facility</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern State Hospital</td>
<td>$460</td>
</tr>
</tbody>
</table>

Section 2. Facilities with a Routine Service Charge Per Diem with Separate Charges for Treatment Services on an Individual Basis.

(1) The following facilities shall charge a per diem rate for room and board and a separate charge for each treatment service listed in subsection (2) of this section that is provided:
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

<table>
<thead>
<tr>
<th>Facility</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central State Hospital</td>
<td>$400</td>
</tr>
<tr>
<td>Central State - ICF/MR</td>
<td>395</td>
</tr>
<tr>
<td>Western State Hospital</td>
<td>375</td>
</tr>
<tr>
<td>Western State Nursing Facility</td>
<td>160</td>
</tr>
<tr>
<td>Outwood ICF/MR</td>
<td>200</td>
</tr>
<tr>
<td>Oakwood</td>
<td>235</td>
</tr>
<tr>
<td>Hazelwood Center</td>
<td>345</td>
</tr>
<tr>
<td>Glasgow State Nursing Facility</td>
<td>200</td>
</tr>
<tr>
<td>Del Maria</td>
<td>425</td>
</tr>
<tr>
<td>Meadows</td>
<td>410</td>
</tr>
<tr>
<td>Windsong</td>
<td>365</td>
</tr>
<tr>
<td>Volta House</td>
<td>125</td>
</tr>
</tbody>
</table>

(2) A separate charge shall be imposed if the following treatment services are provided at a Department for Mental Health and Mental Retardation Services facility listed in subsection (1) of this section:
(a) Physicians services;
(b) EEG;
(c) EKG;
(d) Occupational therapy;
(e) Physical therapy;
(f) X-ray;
(g) Laboratory;
(h) Speech therapy;
(i) Hearing therapy;
(j) Psychology;
(k) Pharmacy;
(l) Respiratory therapy;
(m) Anesthesia; and
(n) Electroconvulsive therapy.

Section 3. Board, Maintenance and Treatment Charges. Cost per day for board, maintenance and treatment charges shall be fixed using the last available audited third-party cost report increased for inflation. Current rates shall be posted at each facility.

MARGARET PENNINGTON, Commissioner
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 26, 2000
FILED WITH LRC: August 9, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Mike Littlefield
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the patient cost per day for board, maintenance and treatment at facilities operated by the Cabinet for Health Services.
(b) The necessity of this administrative regulation: The administrative regulation is needed in order to ensure that facilities operated by the Cabinet for Health Services maintain the financial ability to care for the needs of the mentally ill and mentally retarded.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Statutory Authority: KRS 194A.030, 194A.050, 210.720(2), 210.750, 210.760. KRS 210.720(2) requires the Secretary of the Cabinet for Health Services to establish the patient cost per day for board, maintenance and treatment for each facility operated by the cabinet at the current rates which shall be the uniform charge for persons receiving those services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes a per diem rate for room and board at each facility operated by the Cabinet for Health Services. The administrative regulation also lists the ancillary and treatment services furnished and/or available at the facilities. Ancillary and treatment charges rates are maintained in the business office of each facility.
(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 amendment to the regulation will revise the current per diem rates at the facilities to reflect the actual cost of patient care for fiscal year 1999, trended and indexed for inflation. The cost per day for board, maintenance and treatment was calculated using the last available audited third-party cost report.
(b) The necessity of the amendment to this administrative regulation: This emergency amendment to the regulation is needed in order to ensure the continued availability of current services. Failure to implement this amendment will result in a reduction in revenue from self and third-party payers. A reduction in revenue would result in a reduction in services.
(c) How the amendment conforms to the content of the authorizing statutes: Statutory Authority: KRS 194A.030, 194A.050, 210.720(2), 210.750, 210.760. KRS 210.720(2) directs the Secretary of the Cabinet for Health Services to establish the patient cost per day for board, maintenance and treatment for each facility operated by the cabinet at frequent intervals which shall be the uniform charge for persons receiving such services.
(d) How the amendment will assist in the effective administration of the statute: Pursuant to KRS 210.720, every patient admitted to a facility operated or utilized by the Cabinet for Health Services, except prisoners transferred pursuant to KRS 202A.201, shall be charged for board, maintenance and treatment. This emergency amendment to the regulation will ensure patients are charged the actual cost of patient care as determined by the FY 1999 cost reports, trended and indexed for inflation. By revising the per diem rates to reflect actual cost, the Cabinet for Health Services will maintain the financial ability to care for the needs of the mentally ill and mentally retarded.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will impact clients at the 13 state treatment facilities who are classified as either self-pay or who have a third-party payer other than Medicare or Medicaid. Medicare and Medicaid establish reimbursement rates based upon the actual cost of board, maintenance and treatment at the individual facilities. The group of individuals impacted historically represents less than 1% of all patients served.
(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: By amending the current administrative regulation, clients who are classified as either self-pay or who have a third-party payer other than Medicare and Medicaid will pay a higher rate for board, maintenance and treatment. The current published per diem rates do not accurately reflect the cost of services provided by the facilities.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency Funds. Each facility operated by the Cabinet for Health Services will be required to charge change rates in its computer billing system.
(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: N/A
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: N/A
(9) 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.
ARRS = Administrative Regulation Review Subcommittee

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARRS, August 1, 2000)

11 KAR 8:030. Teacher scholarships.

RELATES TO: KRS 164.744(2), 164.763(3), 164.769
STATUTORY AUTHORITY: KRS 164.748(4), 164.753(3), 164.769(5), (6)(f)
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) Applicant shall complete the Teacher Scholarship application 2001-2002, according to its accompanying 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. Proceeding 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 164.611, 164.613, 164.766, 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 educational expenses and 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; or
(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 to whom the scholarship is awarded and 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 enroll-
ment 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.

(b) The school shall retain a copy of the disbursement roster for its records and forward the original roster and any disbursed scholarship funds to the authority not later than thirty (30) days following receipt of the roster and the funds.

(c) The authority notifies the school that a student has not been admitted.

(d) The obligation of the school to provide the documentation 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 receive the critical shortage credit provided by KRS 164.769(6)(c): (a) The authority determines that the 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, 1996, 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, 164.768, 164.769 or 164.770 during the same semester as receiving a scholarship pursuant to KRS 161.145, the loan or scholarship received pursuant to KRS 156.611, 156.613, 164.768, 164.769 or 164.770 shall be repaid or cancelled by qualified teaching service prior to the scholarship received pursuant to KRS 161.145.

(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 shall be effective upon mailing. The authority may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the authority. Payments shall first be applied to interest and then to principal on the earliest unpaid promissory note.

Section 9. Records. A participating institution shall maintain complete and accurate records pertaining to the eligibility, enrollment and progress of 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.


(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.

PERSONNEL CABINET
(As Amended at KRRS, August 1, 2000)

101 KAR 2:140. Workers' Compensation Fund and Program. RELATES TO: KRS 18A.110(7)(j), 18A.370, 18A.375, 18A.380, 342.640
STATUTORY AUTHORITY: KRS 18A.030(2)(j), 18A.110(7)(j), 18A.380
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(7)(j) requires the Secretary of Personnel to promulgate administrative regulations to implement programs to provide for the safety, health and welfare of state employees. KRS 18A.380 requires the cabinet to promulgate administrative regulations for the administration of the state employee workers' compensation fund established by KRS 18A.375. This administrative regulation establishes requirements for the workers' compensation fund and program for state employees.

Section 1. Workers Compensation Fund. The self-insured workers' compensation fund and program established by KRS 18A.375(1) shall cover all eligible employees.

Section 2. Eligibles. (1) A state employee, as defined by KRS 18A.370, shall be eligible to participate in the program.

(2) Other state related groups shall be included upon written agreement with the Personnel Cabinet.

Section 3. Assessments. The assessment for an individual agency shall be based on the claim history for the past three (3) years and on the number of employees in the agency. Premiums shall be assessed at the beginning of each fiscal year.

(1) A biennial actuarial study shall be carried out to insure the fund's fiscal soundness.
A fund deficit shall be recouped through an interim billing or
additional assessment if deemed necessary by an actuarial study.

Section 4. Benefits. (1)(a) The required medical expense for a
service rendered by a hospital or doctor, or for a prescribed medica-
tion, shall be paid subject to approval of the claim.
(b) A percentage of the employee's average weekly wage shall be
paid if he is unable to work for an extended period due to a job-related
injury or illness.
(c) Except as provided in subparagraph 2 of this paragraph,
compensation shall not be payable for the first seven (7) days of disabil-
yty.
(2) If the disability continues over two (2) weeks, compensation
shall be allowed from the first day of disability.
(3) For an absence due to illness or injury for which workers'
compensation benefits are received, if the employee elects to accept
the workers' compensation benefits, accumulated sick leave may be
used in order to maintain regular full salary. If paid sick leave is used,
workers' compensation pay benefits shall be assigned back to the
state for whatever period of time an employee received paid sick
leave. An employee shall not receive paid sick leave and workers'
compensation pay for the same period of time.

Section 5. Notification Procedures. (1) Employee requirements.
An employee shall inform the supervisor of an injury as soon as physi-
cally able to do so.
(2) Supervisor requirements.
(a) The supervisor shall:
1. Complete the employer's first report of injury, IA-1, giving spe-
cific information about the injury; and
2. Submit the form to the designated office in the agency within
three (3) working days after the supervisor is notified of an injury to
the insured timely payments to the injured employee.
(b) A Lost Time and Return to Work Form, WCF-1, shall be sub-
mitted by the employee or the employee's representative to the super-
visor if an employee is losing time from work due to a work-related
injury. The supervisor shall notify his personnel unit when an em-
ployee returns so that a WCF-1 form shall be submitted to the Per-
sonnel Cabinet.
(c) Each medical bill, or medical information regarding treatment
of a job-related injury or illness of the employee, shall be submitted in
the same manner as an injury report. An injury report shall be for-
warded as soon as possible.
(d) A safety representative in each agency shall be notified of
each accident so that the representative may review accident causes
and provide safety training. A supervisor shall promote safety with
employees.

Section 6. Recordkeeping. All records maintained by the Per-
sonnel Cabinet and by an agency with respect to an employee claim un-
der this administrative regulation shall be confidentially main-
tained.

Section 7. Agency Withdrawal and Readmission to Program. (1) If
an agency included in the fund as a result of the employment of per-
sons defined in KRS 19A.370 desires to withdraw from the program,
the agency shall provide the Personnel Cabinet with written notice of
its intent to withdraw no later than thirty (30) calendar days prior to the
end of the current fiscal year. If the notice is timely submitted, the
agency may elect to withdraw at the end of the current fiscal year.
(2) An agency which withdraws from the program may be read-
mitted to the program at the discretion of the Personnel Cabinet,
based on compliance with the provisions in subsections (3), (4), and
(5) of this section.
(3) As a condition of withdrawal, the agency shall reimburse the
Commonwealth for all claims incurred by its employees, but not re-
ported to the fund prior to the effective date of withdrawal, without
regard to the length of time after the withdrawal date that the claims
are actually received by the Personnel Cabinet.
(a) The Commonwealth shall bill the agency on a quarterly basis
for the cost of claims that were incurred but not reported as of the date
of withdrawal until all claims have been submitted and processed; and
(b) The agency shall reimburse the Commonwealth within thirty
(30) calendar days of receipt of the itemized statement of payments
made on the agency's behalf.
(4) If an agency that has withdrawn from the program desires to
seek readmission to the fund, the Personnel Cabinet may restore the
agency to the fund upon review and evaluation of the agency's claims
and payment history.
(5) If the Personnel Cabinet approves the agency's restoration to
the fund, the Personnel Cabinet shall assess a premium based on
(a) Claims experience over the preceding three (3) years; and
(b) The current number of employees in the agency.

Section 8. Incorporation by Reference. (1) The following material
is incorporated by reference:
(a) First Report of Injury, Form IA-1 [44-1], February 1995; and
(b) Lost Time and Return to Work Form WCF-1, 1995.
(2) This material may be inspected, copied, or obtained at the
Personnel Cabinet, 200 Fair Oaks Lane, 5th Floor, Frankfort, Kent-
ucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CAROL M. PALMORE, Secretary
PAUL E. PATTON, Governor
DANIEL F. EGBERS, General Counsel
APPROVED BY AGENCY: June 13, 2000
FILED WITH LRC: June 15, 2000 at 10 a.m.

KENTUCKY BOARD OF PHARMACY
(As Amended at ARRS, August 1, 2000)


RELATES TO: KRS 315.020, 315.0351, 315.191, 315.300
[Chapter 316]
STATUTORY AUTHORITY: KRS 315.020(1), 315.0351(1),
315.191(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS
315.191(1) authorizes the board to promulgate administrative
regulations pursuant to KRS Chapter 13A necessary to regulate
and control all matters relating to pharmacists, pharmacist in-
terns, pharmacy technicians, pharmacies, wholesale distributors,
and manufacturers. 315.020(1) and 315.0351(7) require appli-
cants for pharmacy permits to place a pharmacist in charge as a prerequi-
site to compounding and dispensing privileges granted by the Kentucky
Board of Pharmacy.

Section 1. Definitions. "Pharmacist-in-charge" means a pharma-
cist licensed in the Commonwealth of Kentucky, or in the appropriate
jurisdiction of an out-of-state pharmacy holding a Kentucky Board of
Pharmacy permit, who accepts responsibility for the operation of a
pharmacy in conformance with all laws and administrative regulations
pertinent to the practice of pharmacy and the distribution of prescrip-
tion drugs and who is personally in full and actual charge of the phar-
macy.

Section 2. Duties and Responsibilities. (1) The pharmacist-in-
charge shall be so designated in the application for a permit to operate
a pharmacy and in each application for renewal of that permit ther-
after.
(2) A pharmacist may not serve as pharmacist-in-charge:
(a) For more than one (1) pharmacy at a time, except upon written
approval from the Kentucky Board of Pharmacy; and
(b) Unless he is physically present in that pharmacy for a mini-
um of ten (10) hours per week or the amount of time appropriate to
provide supervision and control.
(3) The pharmacist-in-charge shall be responsible for:
(a) Qualify assurance programs for pharmacy services designed to
objectively and systematically monitor care, pursue opportunities for
improvement, resolve identified problems as may exist, and detect and
prevent drug diversion;
(b) The procurement, storage, security, and disposition of drugs
and the provision of pharmacy services;
(c) Assuring that all pharmacists and interns employed by the
pharmacy are currently licensed;
(d) Providing notification in writing to [in writing notifying the
Board of Pharmacy within fourteen (14) calendar [five (5) working] days of any change in the:
1. Employment of the pharmacist-in-charge;
2. Employment of staff pharmacists; and
3. Schedule of hours for the pharmacy;
4. Making or filing of any reports required by state or federal laws and regulations; and
5. Responding to the Kentucky Board of Pharmacy regarding identified violations or deficiencies.

Section 3. (1) The following material is incorporated by reference:
(a) [Application for Permit to Operate a Pharmacy in Kentucky (11/12)] and
(b) [Application for Permit to Operate an Out-of-state Pharmacy (11/12)] are incorporated by reference.

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

DAVID L. JAQUITH, President
CHERYL LALONDE-MOONEY, JD, Assistant Attorney General
APPROVED BY AGENCY: May 17, 2000
FILED WITH LRC: June 7, 2000 at 11 a.m.

KENTUCKY BOARD OF PHARMACY
(As Amended at ARRS, August 1, 2000)

201 KAR 2:240. Special limited pharmacy - charitable pharmacy.

RELATES TO: KRS 315.035 [Chapter 315]
STATUTORY AUTHORITY: KRS 315.020, 315.030, 315.035, 315.191(1)(a)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.020, 315.030, and 315.191(1)(a) requires the board to promulgate administrative regulations to prescribe the criteria for obtaining a pharmacy permit to dispense legend drugs and the procedures for the safe dispensing of legend drugs to citizens of the Commonwealth. This administrative regulation identifies the manner and procedure by which a charitable organization can be permitted to obtain a pharmacy permit and dispense legend drugs in the Commonwealth.

Section 1. Definitions. (1) "Charitable organization" means an organization qualified as a charitable organization pursuant to Section 501(c)(3) of the Internal Revenue Code.
(2) "Legend drug sample" means an opened package of a manufacturers legend drug product that has been distributed to either a practitioner or the charitable pharmacy in accordance with the provisions of the Prescription Drug Marketing Act of 1987.
(3) "Qualified indigent patient" means a patient of the charitable pharmacy that has been screened and approved by the charitable organization as meeting the organization's mission of providing pharmaceutical care to those who are without sufficient funds to obtain needed legend drugs.

Section 2. (1) A [special limited pharmacy - charitable pharmacy; (a) Shall comply with all pharmacy permit requirements[[]] except those specifically exempted by [that] the board pursuant to paragraph (b) of this subsection; and
(b) May petition the board in writing to be exempted from those pharmacy permit requirements that do not pertain to the operation of that charitable pharmacy. [of Pharmacy upon written petition of the charitable organization exempts.]
(2) The charitable pharmacy only shall dispense prescription legend drug samples or prescription legend drugs to qualified indigent patients of the pharmacy.
(3) The charitable pharmacy shall not charge any fee for the dispensing of prescription legend drug samples or prescription legend drugs to qualified indigent patients of the pharmacy.

(4) A charitable pharmacy may accept prescription legend drugs in their unbroken original packaging from pharmacies, wholesalers, or manufacturers, [excluding-controlled substances;] provided appropriate records of receipt and dispensing are maintained.
(5) A charitable pharmacy shall not:
(a) Accept controlled substances from pharmacies, wholesalers, or manufacturers; or
(b) Dispense controlled substances.
(6) A pharmacy that requests a charitable pharmacy permit shall submit to the board for prior approval, a plan describing the method by which the charitable pharmacy and the pharmacy will maintain a separate and distinct prescription drug stock. The failure of either pharmacy to follow the plan shall result in revocation of the special limited pharmacy permit and the pharmacy permit.

DAVID L. JAQUITH, President
CHERYL LALONDE-MOONEY, JD, Assistant Attorney General
APPROVED BY AGENCY: May 17, 2000
FILED WITH LRC: June 2, 2000 at 3 p.m.

KENTUCKY BOARD OF SOCIAL WORK
(As Amended at ARRS, August 1, 2000)

201 KAR 23:015. Temporary permission to practice.

RELATES TO: KRS 335.080, 335.090, 325.100
STATUTORY AUTHORITY: KRS 335.070(1), (3), (9)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.070(1) authorizes the board to evaluate and approve the qualifications of applicants for licensure. KRS 335.070(3) authorizes the board to promulgate administrative regulations. KRS 335.070(9) authorizes the board to establish requirements for temporary permits to practice social work. This administrative regulation establishes the requirements for the granting of temporary permission to engage in the practice of social work.

Section 1. (1) A temporary permit to engage in the practice of social work may be granted to an applicant who has completed all of the requirements for licensure except the examination and has applied for licensure under the provisions of KRS 335.080, 335.090 or 335.100 [Chapter 335].
(2) A person practicing under a temporary permit as a certified social worker shall not:
(a) Engage in the practice of clinical social work under the provisions of KRS 335.200(3) or 335.100(3);
(b) Accumulate hours towards the supervision requirements of KRS 335.100(1)(b).
(3) The temporary permit shall allow the applicant to engage in the practice of nonclinical social work under the supervision of a person credentialed by the board at the same, or higher licensure level as that applied for by the applicant for the temporary permit.
(4) [[9]] The request for a temporary permit shall be accompanied by a letter from the prop sec superior acknowledging the responsibility for supervision and for the practice of the person holding the temporary permit.
(5) [[49]] No licensee may serve as the supervisor for more than two (2) persons holding a temporary permit at any one (1) time.
(6) [65] Supervision during the period of temporary permission to practice shall be a minimum of one (1) hour of individual, face-to-face supervision per week.
(7) [[66]] The temporary permit shall be valid until the applicant for licensure is issued or denied licensure under the provisions of KRS 335.080, 335.090, or 335.100 [Chapter 335], but in no instance shall the temporary permit extend for more than sixty (60) days following the second examination offered after the applicant has applied for licensure.
(8) [[57]] No more than one (1) temporary permit shall be granted for any applicant for licensure.

BILL L. JETT, Chairman
JAMES J. GRAWE, Assistant Attorney General
1. An unresolved citation filed against him by the board;
2. A suspended or probated license; or
3. A previous or existing personal relationship with a supervisee; and
(c) Has:
1. Been in the practice of clinical social work for three (3) years following licensure as a licensed clinical social worker; and [or]
2. By August 1, 2001, completed a board-approved three (3) hour training course on supervisory practices and methods for licensed clinical social workers. Supervisory experience obtained in Kentucky with a supervisor who has not completed the course required by this subsection shall not be approved by the board. [Demonstrated a level of competence equivalent to the experience requirement established in subparagraph 1 of this paragraph.]
(2) A supervisor of record shall be the supervisor who assumes responsibility for the practice of a certified social worker pursuant to KRS 335.080(3) and 335.100(3). A licensed clinical social worker shall not serve as a supervisor of record for more than six (6) certified social workers with whom he has a contract to be held accountable to the board at the same time.
(3) An applicant receiving supervision outside of Kentucky shall demonstrate that he or her supervisor has been in the practice of clinical social work for a period of three (3) years following licensure as a clinical social worker or its equivalent effective at the time of the supervision. (Applicants from out-of-state must show their supervisors:
(a) Have passed the examination for licensed clinical social workers that is required for licensure in Kentucky; and
(b) Have three (3) years of experience obtained after receiving their license as a licensed clinical social worker or its equivalent at the time of the supervision.)

Section 4. Supervisory Contract. The supervisory contract required by KRS 335.080(3) and 335.100(3):
1. The name and license number of the supervisee.
2. The name and license number of the supervisor of record.
3. The name and license number of other supervisors.
4. The agency, institution, or organization where the experience will be received.
(5) A detailed description of the nature of the practice including the type of:
(a) Clients which shall be seen;
(b) Therapies and treatment modalities which shall be used including the prospective length of treatment; and
(c) Problems which shall be treated.
(6) The nature, duration, and frequency of the supervision, including:
(a) Number of hours of supervision per week;
(b) Amount of group and individual supervision; and
(c) Methodology for transmission of case information.
(7) The conditions or procedures for termination of the supervision.
(8) A statement that:
(a) The supervisor of record understands that he shall be held accountable to the board for the care given to the supervisee's clients;
(b) The certified social worker is an employee of an agency, institution, or organization, and has Social Security and income tax deducted from his salary; and
(c) The supervisor of record and other supervisors meet the criteria established in Section 3(1) and (2) of this administrative regulation.
(9) An individualized job description which:
(a) Describes in detail how the requirements of Sections 6 and 7 of this administrative regulation shall [will] be met; and
(b) Is on office or agency letterhead and is signed by the executive director, the agency director or the individual who heads the office.

Section 5. Notice to Client. If an employee is practicing under the supervision of a licensed clinical social worker, the employee shall notify in writing [send written notification] to each client during the period of the supervision [at the beginning of his employment]. The notification shall contain:
1. The name, office address, telephone number, and license number of the supervisor of record; and
(2) A statement that the employee is licensed by the board.

Section 6. Experience Under Supervision. Experience under supervision shall consist of:
(1) At least sixty (60) percent of the required experience in a direct client-professional relationship;
(2) Direct responsibility for a specific individual or group of clients; and
(3) Broad exposure and opportunity for skill development with a variety of dysfunctions, diagnoses, acuity levels and population groups.

Section 7. Supervision Requirements. (1) Supervision shall relate specifically to the qualifying experience and shall focus on:
(a) The accurate diagnosis of a client problem leading to proficiency in applying professionally recognized clinical nomenclature;
(b) The development and modification of the treatment plan;
(c) The development of treatment skills suitable to each phase of the therapeutic process;
(d) Ethical problems in the practice of clinical social work; and
(e) The development and use of the professional self in the therapeutic process.
(2) Supervision shall total a minimum of 200 hours, which shall include individual supervision of not less than two (2) hours during every two (2) weeks of clinical social work practice. More than 100 hours shall not be obtained through group supervision in groups of six (6) or fewer members.

Section 8. Evaluation by Board. (1) The period of supervised experience required by KRS 335.100(1)(b) shall be evaluated by the board according to one (1) of the following methods [at-the-option-of-the-candidate]:
(a) Postexperience evaluation. A [The] candidate whose experience was obtained while employed at an agency exempted under KRS 335.010(3), (4) or (5) while licensed in another state shall submit his application along with appropriate documentation of supervision upon completion of the experience.
(b) Transitional evaluation. A [The] candidate who has accumulated an amount less than the full amount of qualifying experience while employed at an agency exempted under KRS 335.010(3), (4) or (5) or while licensed in another state, and who is seeking to obtain the remainder of his experience in nonexempt employment, shall submit his application along with appropriate documentation of supervision completed to the date of his application. He shall also submit with his application a contract under paragraph (c) of this subsection for the remainder of the experience [shall submit a contract for the experience already attained and for the experience yet to be attained].
(c) Preapproved evaluation. Candidates not otherwise exempted under KRS 335.010(3), (4) or (5) [The candidate] shall submit a contract for the experience which will be taking place over the required time period and have the contract approved by the board prior to beginning supervision. This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.
(2) A certified social worker who desires to practice clinical social work which does not qualify as supervised experience pursuant to KRS 335.100(1)(b), shall submit a contract pursuant to KRS 335.080(3). This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

Section 9. (1) Changes to that portion of the supervisory contract which describes the nature of the practice and experience that the supervisee is to obtain as required by Section 4(5) of this administrative regulation shall [must be submitted to the board for approval].
(2) If the supervisee changes his supervisor of record, a new supervisory contract shall be submitted to the board for approval.
(3) A supervising shall notify the board by letter of changes of supervisors who are not the supervisor of record, but who are identified in the supervisory contract pursuant to Section 4(3) of this administrative regulation.


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Social Work, Berry Hill, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

BILL L. JETT, Chairman
JAMIE J. CRAWFORD, Assistant Attorney General
APPROVED BY AGENCY: June 14, 2000
FILED WITH LRC: June 15, 2000 at 11 a.m.

KENTUCKY BOARD OF SOCIAL WORK
(As Amended at ARRS, August 1, 2000)

RELATES TO: KRS 335.501(1)
STATUTORY AUTHORITY: KRS 335.070(3), 335.150(1)(g)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.150(1)(g) provides that the board may take disciplinary action against an applicant or licensee who has violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation. This administrative regulation establishes the code of ethical conduct.

Section 1. Definitions. (1) "Client" means:
(a) An individual, family, or group[-or-organization] who directly receives social work services from a social worker; or
(b) A corporate entity or other organization if the [shall be considered as the client if the] professional relationship is [to provide a social work service of benefit directly to the corporate entity or organization]; or
(c)(1)[1] A legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult. [If a minor or legally incompetent adult shall be considered the client for a decision making purpose.]
2: The minor or legally incompetent adult shall be considered the client for an issue that
(a) Directly affects the physical or emotional safety of the individual, including a prohibited relationship; or
(b) is specifically reserved to the individual and agreed to by the guardian prior to the rendering of the service.
(2) A person identified as a client pursuant to subsection (1) of this definition shall be deemed to continue to be a client for a period of five (5) years following the last date of service rendered to the person.
(3) [60] "Dual relationship" means a social, business, or personal relationship between a social worker and a client that coexists with the professional-client relationship between the social worker and the client.

Section 2. Client Relationships. (1) A legal guardian of a minor or legally incompetent adult shall be considered the client for the purpose of making decisions relative to the provision of services for the minor or legally incompetent adult.
(2) The minor or legally incompetent adult shall be considered the client for an issue that:
(a) Directly affects the physical or emotional safety of the individual, including a prohibited relationship; or
(b) is specifically reserved to the individual and agreed to by the guardian prior to the rendering of the service.
(3) A client who directly receives the social work service shall be deemed to continue to be a client for a period of five (5) years following the last date of service actually rendered.

Section 3. Responsibility to Clients. (1) A social worker shall promote the well-being of a client and, if required by law, the safety and well-being of an individual whose life might be affected by the client's behavior or circumstance.
(2) A social worker shall not illegally discriminate against an individual.
(3) A social worker shall not provide a service outside his scope of practice as established in 201 KAR 23:060.
(4) A social worker shall notify a client of the regulatory authority of the board by displaying a written notice in public view in the social work office.
worker's office or service site. The notice shall contain the:
(a) Name of the social worker;
(b) Type of social work license;
(c) License number of the social worker; and
(d) Name, address, and telephone number of the board.
(5) A social worker shall confine his practice to a condition imposed upon his license by a state or federal authority and shall not practice as a social worker as defined in KRS 335.020 if his license has been suspended or revoked.
(6) A social worker shall provide a service to a client in a manner that is respectful and appreciative of the client's culture.
(7) A social worker shall not refer a client or delegate a service to a provider whom the social worker has reason to believe is not qualified to perform a professional service.
(8) A social worker shall provide a service to a client in the least restrictive mode of care.

Section 4, [3] Informed Consent. (1) A social worker shall obtain informed consent from the client or his legal guardian in writing to provide a social work service. To obtain informed consent, a social worker shall inform the client of the following:
(a) The client's condition;
(b) The recommended social work service;
(c) Reasonable expectations of the benefits from the service;
(d) Possible foreseeable risks or negative consequences of the service;
(e) Possible alternative services; and
(f) The right to refuse a service.
(2) A social worker shall obtain written informed consent from the client or his legal guardian before audiocaping or videotaping the client.
(3) A social worker shall inform a client of the social worker's duties and obligations to a third party if the third party has referred the client and has a continuing interest in the client's participation in a service plan.
(4) A social worker who provides a collateral service to a family member of a client shall inform the family member about the social worker's duties and obligations to the primary client and the possible limitations of service to the family member.
(5) Informed consent required by this section shall be obtained in writing and shall expressly state the nature of the informed consent.

Section 5, [4] Professional Integrity. (1) A social worker shall not provide a social work service if under the influence of alcohol, another mind-altering or mood-altering drug, or physical or psychological illness which impairs delivery of the services.
(2) A social worker shall not possess or distribute the board's examination material without authorization by the board.
(3) A social worker shall not interfere with a board investigation of a social worker through a willful means including:
(a) Misrepresentation of a fact;
(b) Undue influence of a witness;
(c) A threat toward a person; or
(d) Harassing communication toward a person.
(4) A social worker shall not verbally abuse or harass or physically threaten or assault a client, supervisee, employee, board member, or agent of the board.

Section 6, [5] Responsibility to Students and Supervisees. (1) A social worker shall promote the educational and training interests of his students and supervisees.
(2) A social worker shall not engage in a social, business, or personal relationship with his student or supervisee if that relationship might:
(a) Impair the social worker's professional judgment;
(b) Incur the risk of exploitation of the student or supervisee; or
(c) Otherwise violate a provision of this administrative regulation.
(3) If a social, business, or personal relationship cannot be avoided and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the student or supervisee, or otherwise violate a provision of this administrative regulation, the social worker shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.
(4) A social worker shall not obtain or engage the service of his student or supervisee in an activity except an activity that promotes a student's or supervisee's academic, educational, or training interest.
(5) A social worker shall not engage in sexual intimacy or contact with his student or supervisee.
(6) A social worker shall not enter into a professional-client relationship with his student or supervisee.
(7) A social worker shall not permit a student or supervisee to perform or to hold himself out as competent to perform a professional service beyond his level of training, experience, or competence.

Section 7, [6] Advertising. (1) A social worker shall accurately present his services, education, professional credentials, qualifications, and license level to the public.
(2) A social worker shall not display a license issued by the board which has expired, or has been suspended or revoked.
(3) A social worker shall not use professional identification, including a business card, office sign, letterhead, telephone directory listing, or electronic listing if it includes a statement that is false, fraudulent, misleading, or deceptive. A statement shall be deemed false, fraudulent, misleading or deceptive if it:
(a) Contains a material misrepresentation of fact; or
(b) Is intended to, or is likely to, create an unjustified expectation by the public or by a client.

Section 8, [7] Payment for Services. (1) A social worker shall ensure that a client is informed of the fee and billing arrangement before rendering a service.
(2) A social worker shall not bill, or permit a client or third party to be billed, for a social work service if he knows that the service was:
(a) Not provided;
(b) Improperly provided;
(c) Provided by another individual who is not identified on the billing statement; or
(d) Unnecessary.
(3) A social worker shall not offer or accept payment or other compensation for referral of a client.
(4) A social worker shall not accept a form of remuneration for a service that involves the bartering of services.
(5) A social worker may take legal measures to collect a fee if:
(a) A client does not pay the agreed fee for a rendered service; and
(b) The social worker:
1. Gives reasonable advance notice to the client; and
2. Does not release more information about the client than is necessary to collect the fee.

Section 9, [8] Confidentiality. (1) A social worker shall hold communications with a client in confidence and shall maintain a record of client information in a confidential manner.
(2) A social worker may disclose client information if:
(a) The client has signed an authorization to release information;
(b) The social worker is required by law to disclose essential information out of a duty to protect, warn, or report;
(c) The social worker is a defendant in a civil or criminal action or is a respondent in a disciplinary process; or
(d) A client has raised his mental condition as an element in a civil action and the court has ordered the release of the client's information.
(3) A social worker shall not disclose more client information than is necessary to meet the requirements of law.
(4) A social worker shall remove identifying information about the client from a training manual, professional writing, or classroom presentation.
(5) A social worker shall protect the confidentiality of a deceased client.

(2) A social worker shall retain and secure a client record in a manner that maintains confidentiality and, if authorized by subsection (3) of this section, shall destroy a record in a manner that ensures confidentiality.
(3) A social worker shall maintain a client record for at least five (5) years from the date of termination of a service, or until a client
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

reaches the age of twenty (20) years, whichever is longer.

Section 11. [99] Dual Relationships. (1) A social worker shall not enter into a dual relationship with a client if the relationship might:
(a) Impair the social worker’s professional judgment;
(b) Incur the risk of exploitation of the client; or
(c) Otherwise violate a provision of this administrative regulation.
(2) If a dual relationship cannot be avoided and if it does not impair the social worker’s professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, the social worker shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.
(3) A social worker shall not obtain or engage the service of a client if obtaining or engaging the service might:
(a) Impair the social worker’s professional judgment;
(b) Incur the risk of exploitation of the client; or
(c) Otherwise violate a provision of this administrative regulation.
(4) A social worker shall not engage in sexual intimacy or contact with a client or former client.
(5) A social worker shall not engage in a personal relationship or engage in sexual intimacy or contact with a member of a client’s immediate family or an individual who is otherwise an intimate of the client.
(6) A social worker shall not use his professional relationship with a client or a former client to further his personal interest or personal gain.
(7) A social worker shall not enter into a professional-client relationship with a member of the social worker’s immediate family, an intimate, or a personal friend unless this relationship does not pose a risk of harm to the client or to a member of the client’s immediate family.
(8) A social worker shall be solely responsible for acting appropriately in regard to a relationship with a client or former client. A client or a former client’s initiation of a personal, sexual, or business relationship shall not justify, excuse, or provide a defense for a violation of this section.

Section 12. [51] Referral and Termination. (1) A social worker shall make a timely and appropriate referral of a client for a social work or other service if:
(a) The social worker is unable to provide the work or service; or
(b) The client’s need exceeds the competency of the social worker.
(2) A social worker shall terminate a social work service if a client:
(a) Has attained his stated goal or objective or ended the relationship;
(b) Fails to benefit from the social work service.
(3) A social worker shall communicate the referral or the termination of a social work service to a client.
(4) A social worker shall not terminate a social work service or refer a client for the purpose of entering into a personal relationship with the client, including:
(a) A sexual, romantic relationship;
(b) A financial or business relationship; or
(c) Other activity that might serve a personal, political, or religious interest of the social worker.

Section 13. [12] Research. (1) A social worker shall obtain written informed consent from a client or a client’s guardian if the client is a subject of a research project.
(2) A client’s consent shall comply with the requirements of federal and state law regulating research with a human subject and shall include at least the following:
(a) The scope and purpose of the research;
(b) The procedures used to protect the client’s confidentiality interests;
(c) The client’s right to participate or to refuse to participate without negative consequence to service delivery;
(d) The possible risks and benefits of participation; and
(e) The client’s right to withdraw from participation without negative consequence to service delivery.
(3) A social worker shall protect the privacy and anonymity of a client who is a research subject and shall inform a client of a limitation on confidentiality that might arise from participation in the research project.

Section 14. [13] Duty to Report. A social worker who has personal knowledge of a violation of the code of ethical conduct shall report to the board the name of the offending social worker and the nature of the ethical violation. The social worker shall not report the name of the client or client identifying information unless the client has given informed consent to him.

BILL L. JETT, Chairman
JAMES J. GRAWE, Assistant Attorney General
APPROVED BY AGENCY: June 14, 2000
FILED WITH LRC: June 15, 2000 at 11 a.m.

KENTUCKY BOARD OF LICENSURE OF MARRIAGE AND FAMILY THERAPISTS
(As Amended at ARRS, August 1, 2000)

201 KAR 32:030. Fees.

RELATES TO: KRS 335.330, 335.340(1), (3) [eti] STATUTORY AUTHORITY: KRS 335.330, 335.320(4) [fei], 335.340(1), (3) [eti] NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation sets all fees for licenses as a marriage and family therapist and marriage and family therapist associate. KRS 335.330 requires the board to promulgate an administrative regulation establishing the initial fee for licensure [certification] required to be paid by an applicant for license [certification] and requires an applicant to pass a written examination prescribed by the board. KRS 335.340(1)[(e)] requires that all licenses issued under KRS 335.330 shall be renewed annually, and that the board [to] promulgate an administrative regulation establishing the fee for license [certificate] renewal. KRS 335.320(4) [fei] authorizes the board to promulgate administrative regulations necessary to implement KRS Chapter 335. KRS 335.340(3) requires the board to promulgate an administrative regulation establishing the annual renewal fee. KRS 335.340(3) requires the board to establish procedures for reinstatement of expired licenses. [This administrative regulation establishes these fees.]

Section 1. Initial Application [Certification] Fee. [(f)] The initial application [certification] fee for license [certification] as a marriage and family therapist shall be fifty ($50) dollars [$250].
[(g)] If an application for certification is denied, the board shall refund $150 of the initial certification fee.

Section 2. Initial Licensure Fee. The initial fee for licensure as a marriage and family therapist shall be $150.

Section 3. Examination Fee. The fee for taking the license [certification] examination shall be $195.

Section 4. [3] Renewal Fee. The fee for renewal of license as a marriage and family therapist [certification] shall be $110 annually [$250 for a three (3) year period].

Section 5. Late Renewal Fees. Any licensee who renews his license during the ninety (90) day grace period provided by KRS 335.340(3) shall pay a late renewal fee of fifty ($50) dollars in addition to the payment of the renewal fee as set forth in Section 4 of this administrative regulation.

Section 6. Reinstatement of Expired License. (1) An expired license may be reinstated by:
(a) Submitting a completed "License Reinstatement form";
(b) Payment of the renewal fee as set forth in Section 4 of this administrative regulation for each year since the date of last active license;
(c) Payment of a reinstatement fee of $100; and
(d) Meeting all other requirements of this section.
(2) The applicant for reinstatement of an expired license shall
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

submit proof of completion of fifteen (15) hours of continuing education for each year since the date of last active licensure.


(2) This material [II] may be inspected, copied, or obtained at the Kentucky Board of Licensure for Marriage and Family Therapists, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 8. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

JOHN P. SOHAN, Chair
DIANE SCHULER FLEMING, Assistant Attorney General
APPROVED BY AGENCY: May 1, 2000
FILED WITH LRC: May 3, 2000 at 11 a.m.

KENTUCKY BOARD OF LICENSURE OF MARRIAGE AND FAMILY THERAPISTS
(As Amended at ARRS, August 1, 2000)

201 KAR 32:081. Inactive licensure status.

RELATES TO: KRS 335.325(6)
STATUTORY AUTHORITY: KRS 335.320(9), 335.325(6)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.325(6) enables the board to grant retired or inactive status to licensees under the conditions set forth by administrative regulation. This administrative regulation establishes the requirements for inactive licensure status.

Section 1. Inactive licensure status may be granted to a licensee pursuant to KRS 335.325(6) upon written request to the board.

(1) The licensee shall be relieved of his obligation to pay the renewal fee, but shall meet the annual requirements for continuing education as established in 201 KAR 32:060.

(2) The licensee may return to active status within three (3) years of being granted inactive licensure status upon:
(a) Written notification to the board;
(b) Payment of the current renewal fee as set forth in 201 KAR 32:030; and
(c) Demonstration of compliance with all continuing education requirements, as established in 201 KAR 32:060, for each year during the period of inactive licensure status.

(3)(a) If the licensee does not reactivate his license before the third anniversary date of the granting of inactive licensure status, then the license shall be forfeited.

(b) Following forfeiture of a license under the provisions of this section, any person desiring to practice marriage and family therapy in the Commonwealth of Kentucky shall:
1. File [make] a new application for licensure with [to] the board;
2. [J] Pay the initial fees for application and licensure; [J] and
3. Meet current requirements for initial licensure, as established by statute and administrative regulation.

JOHN P. SOHAN, Chair
DIANE SCHULER FLEMING, Assistant Attorney General
APPROVED BY AGENCY: May 1, 2000
FILED WITH LRC: May 3, 2000 at 11 a.m.

KENTUCKY BOARD OF LICENSURE OF MARRIAGE AND FAMILY THERAPISTS
(As Amended at ARRS, August 1, 2000)

201 KAR 32:101. Reinstatement of license subject to disciplinary action.

RELATES TO: KRS 335.325(5); 335.340(5), (7)
STATUTORY AUTHORITY: KRS 335.320(9), 335.348, 335.360

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.348 empowers the board to punish a licensee for violation of the statutes and administrative regulations governing the practice of marriage and family therapy. This includes the ability to revoke a license. KRS 335.360 permits a person whose license has been revoked to apply for reinstatement after five (5) years. This administrative regulation establishes the requirements for reinstatement of a license that has been the subject of disciplinary action by the board.

Section 1. Definition. (1) "A license voluntarily surrendered as if revoked" means the process by which a person who holds a license issued by the board, knowingly and willingly, returns the license to the board, forfeiting all rights and privileges associated with that license, in settlement of a disciplinary action initiated by the board.

Section 2. Reinstatement of a License Revoked by Disciplinary Action of the Board. (1) If a license has been revoked, an individual may apply for reinstatement by:
(a) Completing the License Reinstatement form;
(b) Paying the initial licensure fee as set forth in 201 KAR 32:030;
(c) Paying the examination fee as established in 201 KAR 32:030;
(d) Taking the licensure examination and achieving a passing score; and
(e) The applicant shall show evidence of completion of fifteen (15) hours of continuing education for each year since the date of revocation in accordance with the requirements established in 201 KAR 32:060.

(2)(a) A hearing shall be held to determine whether or not to reinstate the former licensee.

(b) The board shall consider the information contained in the application and the testimony and evidence obtained in the hearing.

(c) Based upon the information gathered the board shall determine if reinstatement of the license would be a threat to public safety, health and welfare.

(d) If the board finds that there no longer exists a danger to the public, it may reinstate the license.

(e) If the board finds that the danger still exists, it may refuse to reinstate the license.

Section 3. [2] Reinstatement of a License which was Voluntarily Surrendered as if Revoked. (1) If a license has been voluntarily surrendered as if revoked, an individual may apply for reinstatement by:
(a) Completing the License Reinstatement form;
(b) Paying the initial licensure fee as established in 201 KAR 32:030;
(c) Paying a reinstatement fee of fifty (50) dollars;
(d) Notifying the board, in writing, that the requirements of agreed order have been met or completed; and
(e) Notifying the board, in writing, to request that a hearing be held to determine if the issuance of a license would no longer be a threat to public safety and welfare.

(2) An individual whose license has been voluntarily surrendered as if revoked shall be required to comply with the annual continuing education requirements for the period during which the license was voluntarily surrendered in accordance with the requirements established in 201 KAR 32:060.


(2) This material [II] may be inspected, copied, or obtained at the Kentucky Board of Licensure for Marriage and Family Therapists, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. SOHAN, Chair
DIANE SCHULER FLEMING, Assistant Attorney General
APPROVED BY AGENCY: May 1, 2000
FILED WITH LRC: May 3, 2000 at 11 a.m.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, August 1, 2000)


RELATES TO: KRS 150.010, 150.090, 150.620, 150.625, 150.990, 235.280, 235.990

STATUTORY AUTHORITY: KRS 150.620, 150.625, 235.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.280

authorizes the department to promulgate administrative regulations to govern the fair, reasonable, equitable and safe use of all waters of this state. KRS 150.620 and 150.625 gives the department authority to promulgate administrative regulations governing lands and waters it has acquired. This administrative regulation is necessary to limit the size of boats and motors on small lakes for safety reasons and to minimize interference with other users. To regulate the size of outboard motors and boats on state owned lakes to minimize the conflict with the primary purposes of the lakes which are the perpetuation of fish or game populations and the associated sports. This amendment is necessary to prohibit the use of internal combustion motors on Lebanon City Lake and to remove motor size restrictions and increase the boat size limit on Guist Creek Lake:

Section 1. [Boat-Size Restrictions:] (1) Except as otherwise specified in this section, a person shall not operate on the lakes listed in this administrative regulation:

(a) A houseboat;
(b) A monohull boat [A person shall not operate on the lakes listed in this administrative regulation:

(a) Houseboats:
(b) Except on Guist Creek Lake after February 29, 1996, monohull boats; except canoes, with a centerline length exceeding eighteen (18) feet, six (6) inches; [:]
(c) A pontoon boat with a float or [Except on Lake Malone or Lake Beshear, pontoon boats with floats and] docking exceeding twenty-two (22) feet; [:]
(d) A boat motor without an underwater exhaust or [:]
(e) Except in a designated skiing zone, a boat faster than idle speed when passing a boat with an occupant actively engaged in fishing.

(2) A person shall not operate:

(a) A monohull boat with a centerline length exceeding twenty-two (22) feet on:
   1. Guist Creek Lake; or
   (b) A pontoon boat with a float or docking exceeding thirty (30) feet on:
      1. Lake Malone; or
      2. Lake Beshear.

(3) Length restrictions in this section shall not apply to a canoe.

[On Lake Malone or Lake Beshear, pontoon boats with floats and docking exceeding thirty (30) feet:
(e) On Guist Creek Lake after February 29, 1996, monohull boats; except canoes, with a centerline length exceeding twenty-two (22) feet.

(2) There shall be no size restriction on canoes.

Section 2. A person shall not operate an electric or an internal combustion boat motor [motors] on:

(1) Lake Chumley, Lincoln County;
(2) Dennis Gooch Lake, Pulaski County;
(3) Martin County Lake, Martin County; and
(4) Kingdom Come Lake, Harlan County.

Section 3. A person shall not operate an internal combustion boat motor [Persons shall not use internal combustion motors] on:

(1) Carter Caves Lake, Carter County;
(2) Spurlington Lake, Taylor County;
(3) Marion County Lake, Marion County;
(4) Lake Washburn, Ohio County;
(5) Exit Combs Lake, Clay County;
(6) McNeely Lake, Jefferson County;
(7) Lake Mauzy, Union County;
(8) Carpenter Lake and Kingfisher Lakes, Daviess County;
(9) Metcalfe County Lake, Metcalfe County;
(10) Briggs Lake, Logan County;
(11) Big Tornor, Ballard County;
(12) Little Turnor, Ballard County;
(13) Shelby, Ballard County;
(14) Mitchell, Ballard County;
(15) Happy Hollow, Ballard County;
(16) Burnt Slough, Ballard County;
(17) Butler, Ballard County;
(18) Sandy Slough, Ballard County;
(19) Long Pond, Ballard County;
(20) Cross Slough, Ballard County;
(21) Little Green Sea, Ballard County;
(22) Burnt Pond, Ballard County;
(23) Arrowhead Slough, Ballard County;
(24) Deep Slough, Ballard County;
(25) Beaver Dam Slough, Ballard County;
(26) Cypress Slough, Ballard County;
(27) Twin Pockets Slough, Ballard County;
(28) Lake Reba, Madison County;
(29) Lincoln Homestead Lake, Washington County;
(30) Goose, Muhlenberg County;
(31) Island, Ohio County;
(32) South, Ohio County;
(33) Lebanon City Lake, Marion County; [after February 29, 1996].

Section 4. On the following lakes, a person shall not operate a boat motor:

(1) Use motors larger than (10) horsepower; [:
(2) Operate motors faster than slow speeds which cause no disturbance or interference with fishing:

(a) [:]
(b) [Elmer Davis Lake, Owen County;
(c) [Beaver Creek Lake, Anderson County;
(d) [Herb Smith Lake, Harlan County;
(e) [Corinth Lake, Grant County; and
(f) [Swan Lake, Ballard County.

Section 5. A person shall not operate:

(1) A boat motor larger than 150 horsepower on Lake Beshear or Lake Malone.

(2) A motorboat faster than idle speed on:

(a) [:]
(b) Guist Creek Lake, Shelby County; through February 29, 1996;
(c) Lake Malone, Todd, Muhlenberg and Logan Counties; and
(d) Lake Beshear, Christian and Caldwell Counties.

Section 6: Persons shall not exceed idle speed on:

(a) [Greenbo Lake, Greenup County;
(b) [Pine Bowl Lake, Breathitt County; or (and
(c) [Wilman Lake, Madison County.

[Section 7: Persons shall not operate boat motors without underwater exhausts on the lakes listed in this administrative regulation.]

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTU, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: March 3, 2000
FILED WITH LRC: May 25, 2000 at 11 a.m.
TOURISM DEVELOPMENT CABINET
(As Amended at ARRS, August 1, 2000)

301 KAR 2:111. Deer and turkey hunting on federal areas.

RELATES TO: KRS 150.025(1), 150.170, 150.370, 150.390
STATUTORY AUTHORITY: KRS 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)
authorizes the department to promulgate administrative regulations relating to game and fish, including seasons and limits and designated areas where boating and fishing are permitted. To make these administrative regulations apply statewide or to limited areas of the state. This administrative regulation establishes consistent deer and turkey hunting season frameworks on federal areas.

Section 1. General Requirements. (1) Unless otherwise stipulated in the administrative regulation, the provisions of 301 KAR 2:172 and 301 KAR 2:140 shall apply.
(2) On the areas listed in this administrative regulation, a hunter shall:
(a) Obtain a permit from the area before hunting; [ ]
(b) Not hunt deer or turkey except on assigned hunting dates; [ ]
(c) Remain in assigned areas; [ ]
(d) Have the signature portion of a valid deer or turkey permit in his possession; [ ]
(e) Unless otherwise specified in this administrative regulation, tag deer with area tags issued on the area in lieu of the state deer tag; [ ]
(f) Keep the area tag attached to the deer until the carcass is processed; and [ ]
(g) Check deer at a designated check station before leaving the area.
(3) If hunting is not prohibited by other priorities, Land Between the Lakes, Fort Campbell, Fort Knox, Bluegrass Ordnance Depot Activity, Reelfoot National Wildlife Refuge, Clark’s River National Wildlife Refuge, Ohio River Islands National Wildlife Refuge and the West Kentucky National Guard Training Site may allow firearm or archery hunting for antlered or antlerless deer from September 1 through January 31.

Section 2. Land Between the Lakes. (1) A person shall not take more than:
(a) Two (2) deer during archery hunts, as stipulated by the USDA Forest Service; and [ ]
(b) One (1) deer during quota hunts.
(2) Turkey archery hunts: one (1) turkey of either sex during deer archery hunt.
(3) Quota hunters shall:
(a) Apply in advance at Land Between the Lakes; and [ ]
(b) Check in prior to hunting, as required by the USDA Forest Service.
(4) A person shall tag:
(a) Harvested turkey with the appropriate state turkey tag; and [ ]
(b) Harvested deer with either:
1. The appropriate [state] antlered or antlerless state deer tag; or
2. A wildlife management area tag issued by Land Between the Lakes.
(5) A person harvesting deer or turkey shall:
(a) [Harvesting-deer or turkey shall] Check the carcass as required by the USDA Forest Service; and [ ]
(b) Take the entire or field-dressed carcass to a Land Between the Lakes check station before leaving Land Between the Lakes.
(b) [Shall] Not hunt deer or turkey with crowsbaws.

Section 3. Fort Campbell. (1) Turkey, either sex:
(a) Deer archery hunters may take; [ ]
(b) [Firearm-season] Fort Campbell may permit turkey firearm hunting on assigned areas and dates between October 15 and December 31; and [ ]
(c) Turkeys taken at Fort Campbell shall be bonus birds.
(2) White turkey.
(a) A person may take one (1) white turkey of either sex during open Fort Campbell hunting seasons.
(b) Statewide and post limits and tagging requirements shall not apply to white turkey.

Section 4. Reelfoot National Wildlife Refuge. (1) Bag limits. A person shall not take more than:
(a) Four (4) deer by archery, only two (2) of which can be antlered; and [ ]
(b) Two (2) deer by firearms, only one (1) of which can be antlered.
(2) Tagging deer.
(a) A quota hunter shall tag deer with a tag issued by Reelfoot National Wildlife Refuge.
(b) An archery hunter shall tag deer with the appropriate state tag or a [one (1)] tag issued by the Reelfoot National Wildlife Refuge.
(3) An archery hunter shall check harvested deer through the state telephone check system.

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 25, 2000 at 11 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, August 1, 2000)

301 KAR 2:172. Deer hunting seasons and requirements.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.180, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990
STATUTORY AUTHORITY: KRS 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 grants the department authority to establish [set] hunting seasons, bag limits, methods of taking and other matters necessary to carry out the purpose of KRS Chapter 150. This administrative regulation establishes deer hunting seasons, prescribes legal methods of taking and sets forth tagging and checking requirements for deer hunting.

Section 1. Definitions. (1) "Adult" means an individual at least eighteen (18) years of age.
(2) "Antlered deer" means a deer with visible polished antler protruding above the hairline [one (1) antler at least four (4) inches long, measured from the skin to the tip of the antler].
(3) "Antlerless deer" means a deer without any visible polished antler protruding above the hairline.
(a) Without antlers; or
(b) With both antlers less than four (4) inches long, measured from the skin to the tips of the antlers.
(a) "Any deer" means antlered or antlerless deer.
(b) "Archery equipment" means a long bow, recurve bow or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.
(b) "Arrow" means the projectile fired from a bow or crossbow.
(b) "Barbed broadhead" means a point or portion of a blade projecting backward from a broadhead designed to hold an arrow within an animal.
(b) "Bonus antlerless archery permit" means a permit which, in conjunction with appropriate licenses and permits [a statewide-deer permit], allows the holder to take [one (1)] additional antlerless deer by archery.
(b) "Bonus antlerless 2001 one permit" means a permit which, in conjunction with appropriate licenses and permits [a statewide-deer permit], allows the holder to take [one (1)] additional antlerless deer in a zone one county.
(b) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.
(b) "Deer" means member of the species [a white-tailed Odocoileus virginianus].
(b) "Firearm" means a breech or muzzle-loading rifle, shotgun or handgun.
(b) "Fully automatic firearm" means a firearm which fires more
than one (1) time with a single pull of the trigger.
(14) "License year" means the period from March 1 through the
following last day of February.
(15) "Modern gun" means a rifle, handgun or shotgun which is
loaded from the rear of the barrel.
(16) "Muzzle-loading gun" means a rifle, shotgun or handgun
which is loaded at the discharging end of the barrel or discharging
end of the cylinder.
(17) "Polished" means having no velvet or skin covering.
(18) "Shotshell" means ammunition containing more than one (1)
projectile.
(19) [(16)] "Zone" means the grouping of counties or portions of
counties as stipulated in 301 KAR 2:174, Deer hunting zones.

Section 2. Archery and Crossbow Season Dates. (1) A deer
hunter may use:[
(1) archery equipment from the third Saturday in September
through the third Monday in January.
(2) A hunter may use a crossbow:
(a) For ten (10) days beginning on the Monday after Thanksgiving
[the fourth Tuesday in November];
(b) During modern gun deer season; and
(c) During muzzle-loader seasons.

Section 3. Archery and Crossbow Zone Limits. [(4)] During the first
ten (10) days of the [November] modern gun deer season or muzzle-
loader seasons, a deer hunter using archery equipment or a crossbow
shall observe the same requirements [limits] as a hunter using a fire-
arm.
(6) During the youth hunt as specified in Section 6 of this admin-
istrative regulation, a deer hunter using archery equipment may take
any deer in Zones 1 through 5.
(3) During portions of archery or crossbow seasons not concurrent
with the modern gun deer season or the muzzle loader season's deer
hunter:
(a) May take any deer in Zones 1 through 5;
(b) Shall not take antlerless deer in Zone 6;

Section 4. Muzzle-loading Gun Season Dates. A deer hunter may
use a muzzle-loading gun:
(1) For two (2) consecutive days beginning the fourth Saturday in
October;[
(2) For seven (7) consecutive days beginning the second Satu-
day in December; and
(3) During the modern gun deer season.

Section 5. Muzzle-loading Gun Season Zone Limits. During a
season when a muzzle-loading gun is the only firearm allowed, a deer
hunter using a muzzle-loading gun, archery equipment or a crossbow:
(1) May take any deer in Zones 1 through 3 [4];
(2) Shall not take antlerless deer in Zone 4 [Zones 5 or 6].

Section 6. Modern Gun Deer Season Dates. A person may take
deer with a firearm, archery equipment or a crossbow:[
(4) beginning the second Saturday in November;
(1) For sixteen (16) [(a)] for ten (10)] consecutive days in Zones 1
and 2 [(through 5)]; and
(2) For ten (10) [(b)] for five (5) consecutive days in Zones 3 and
4, (Zone 6
(2) in Zone 1, beginning the third Saturday in December for two
(consecutive days;
(3) During the December Zone 1 hunt, a person shall not take with
a gun:
(a) Antlered deer;
(b) More than one (1) antlerless deer;

Section 7. Zone Limits for the Modern Gun Deer Season. During
[A deer hunter using firearms; archery equipment or crossbows during
November] the modern gun deer season, a deer hunter shall observe
the following limits:
(1) Zone 1 and 2: any deer for the first [entire] ten (10) days of the
season and antlerless only for the last six (6) days of the season. After
the first ten (10) days of the modern gun season, an archery hunter
shall comply with the statewide archery season limits and require-
ments;[
(2) Zone 2: any deer the first five (5) days; antlered deer the last
five (5) days;
(3) Zone 3: any deer the first five (5) [two (2)] days; antlered
deer the last five (5) days;
(4) Zone 4 [(4) Zones 4 and 6] antlered deer for the entire ten (10)
day season.
(5) Zone 6: antlered deer for the entire five (5) day season.

Section 8. Youth Hunt. (1) For two (2) consecutive days beginning
on the third Saturday in October, a person under the age of sixteen
(16) may use a firearm to take any deer for which the hunter has an
appropriate license and permit:[
(a) Any deer in Zones 1 through 4;
(b) Antlered deer in Zones 5 and 6;
(2) An adult accompanying a juvenile during the youth hunt shall:
(a) Not carry a firearm; and
(b) Comply with the hunter orange provisions of Section 12 of this
administrative regulation.

Section 9. Use of Tags. A deer hunter required to possess a deer
permit:
(1) Shall not tag an antlered deer with an "antlerless" deer tag; and
(2) May tag antlered or antlerless deer with the "any deer" tag;
and
(3) Using a bonus antlerless archery permit or a bonus antlerless
zone one permit shall:
(a) Not take an antlered deer;
(b) Have the receipt portion of a valid statewide deer permit in his
possession; and
(c) Tag and check deer as required by Sections 15 and 16 of this
administrative regulation.

Section 10. Illegal Hunting Equipment. (1) A person shall not use
or possess while deer hunting:
(a) A device capable of taking a deer except a firearm, crossbow
or archery equipment;
(b) Rimfire ammunition;
(c) A fully-automatic firearm;
(d) A firearm with a magazine capacity greater than ten (10)
rounds;
(e) Steel jacketed ammunition;
(f) Tracer bullet ammunition;
(g) A shotgun shell containing larger than number two (2) size
shot (except slugs shall be permitted; [1] more than one (1) projector;
(h) A broadband smaller than seven-eighths (7/8) inch wide;[
(i) A barbed broadband;[
(j) A crossbow without a working safety device;
(k) A chemically treated arrow; and
(l) An arrow with a chemical attachment.
(2) Except when a firearm is permitted for deer hunting, a person
hunting deer with archery equipment or a crossbow shall not carry a
firearm.

Section 11. Season Limits. Except as provided in 301 KAR 2:178,
2:111 or 2:176, a person shall not take in one (1) license year more
than:
(1) One (1) antlered deer; and
(2) In Zones 2, 3 and 4, a combined total of four (4) deer, provided
that the person has purchased the appropriate bonus permits as pro-
vided by [in] this administrative regulation.

Section 12. Hunter Orange. (1) During the modern gun deer sea-
son, muzzle-loader seasons or the youth hunt, a person hunting any
species, and a person accompanying a hunter, shall display solid,
unbroken hunter orange visible from all sides on the head, back and
chest:
(2) Subsection (1) of this section shall not apply to a person:
(a) Hunting migratory birds; or
(b) Hunting at night.
(3) The hunter orange portions of a garment worn to fulfill the
requirements of this section:
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(a) May display a small section of another color; and [ ]
(b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.
(4) A camouflage pattern hunter orange garment worn without additional solid hunter orange on the head, back and chest shall not meet the requirements of this section.

Section 13. Hunter Requirements and Shooting Hours. (1) An adult shall:
(a) Accompany a person under sixteen (16) years old; and [ ]
(b) Remain in a position to take immediate control of the juvenile’s firearm.
(2) An adult accompanying a juvenile hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.
(3) A deer hunter:
(a) May be in the woods or stands before or after daylight hours, but shall not take deer except during daylight hours; [ ]
(b) Shall not use dogs; and [ ]
(c) Shall not take swimming deer.
(4) A hunter in a vehicle or boat, or on horseback, shall not take deer. A hunter may use a vehicle as a hunting platform if he has a disabled hunting exemption permit issued by the department.

Section 14. License and Deer Permit Requirements. (1) Unless exempted by KRS 150.170(3), a person shall have an appropriate license and signed [a] deer permit in his possession while hunting:
(a) Deer;
(b) Wild hogs or coyotes during a season or wildlife management area hunt where a firearm is allowed for deer hunting.
(2) During a license year, a person shall use no more than:
(a) One (1) statewide deer permit; and
(b) Two (2) [One-Plus] bonus antlerless archery permits, [permit; and]
(c) One (1) bonus antlerless zone one permit;
(3) In lieu of a statewide deer permit, a person possessing a valid junior statewide hunting license may use no more than two (2) junior deer hunting permits.
(4) A juvenile hunter shall use the tag accompanying a junior deer hunting permit as either the “antlerless” or “any deer” tag as appropriate to the season and zone.
(5) A person whose name does not appear on the permit shall not use any portion of the deer permit.

Section 15. Tagging Deer. (1) A person exempt from purchasing a deer permit by KRS 150.170(3) shall:
(a) Have a landowner nonresident carcass tag in his possession while hunting; and
(b) Tag deer as stipulated in subsection (3) of this section.
(2) A person holding a senior/disabled license or a person exempt by KRS 150.170(3) from purchasing a deer permit shall:
(a) Before hunting, write his name and address on cards corresponding to the number of deer he is allowed to take during the appropriate season, and carry these cards while hunting; [ ]
(b) Immediately after taking a deer, write the date the deer was taken on the card, and
(c) Attach the card to the deer before moving the carcass [while it is being transported by vehicle or is in the hunter’s possession].
(3) [Immediately] (9) after taking a deer, a person shall:
(a) Cut [Immediately after taking a deer cut] and remove the numbers on the appropriate tag portion of the permit corresponding to the day and month the deer was taken; and [ ]
(b) Attach the tag portion of the permit to the carcass before moving the carcass.
(4) Whenever the hunter is not in physical possession of the carcass; or

Section 16. Checking Deer. (1) A person shall check a deer by:
(a) Calling 1-877-245-4263 by 9 a.m. on the day following the day the deer was taken; [and]
(b) Providing the information requested by the automated check-in system; and
(c) Writing the authorization number given by the system on the appropriate carcass tag [portion of the deer permit].
(2) A person shall not knowingly provide false information when checking a deer.

Section 17. Transporting and Processing Deer. (1) A person shall:
(a) Not transport uncheck [ed] deer out of Kentucky; [ ]
(b) Have proof that a deer or parts of deer brought into Kentucky were legally taken; [ ]
(c) Not submit deer taken outside Kentucky for Kentucky trophy deer listing; and [ ]
(d) Not sell deer hides except to a licensed: 1. Fur buyer;
2. Fur processor; or
3. Taxidermist.
(2) A taxidermist or other individual who commercially butchers deer [person who processes deer] shall:
(a) Keep accurate records of the hunter’s name, address, check-in authorization number, and date received for each deer in his possession.
(b) Provide and affix to each deer a tag showing the hunter’s name, address, date received, and check-in authorization number. This tag shall remain on the carcass until it is processed; and [ ]
(c) Not accept deer carcasses without proper owner identification and check-in authorization number.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTAR, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: March 3, 2000
FILED WITH LRC: May 25, 2000 at 11 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, August 1, 2000)

301 KAR 2:178. Deer hunting on wildlife management areas.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.180, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990
STATUTORY AUTHORITY: 150.025(1), 150.620
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.620 grant the department authority to establish [set] hunting seasons, bag limits, methods of taking and other matters necessary to carry out the purpose of KRS Chapter 150 on wildlife management areas. This administrative regulation establishes deer hunting dates, application procedures and other matters pertaining to deer hunting on wildlife management areas that differ from statewide requirements.

Section 1. Definitions. (1) "Modern gun season" means the [five (5)- or ten (10) or sixteen (16)] consecutive-day period beginning the second Saturday in November when breech-loading firearms may be used to take deer.
(2) "Private inholding" means privately owned property completely surrounded by a WMA.
(3) "Quota hunt" means a WMA deer hunt, including a youth quota hunt, where a participant is selected by a random drawing.
(4) "Statewide deer requirements" mean [means] the season dates, zone descriptions and other requirements for deer hunting established in 301 KAR 2:172 and 2:174.
(5) "Wildlife management area or WMA" means a tract of land the department controls or manages through ownership, lease, license or cooperative agreement.
(6) "WMA" means a wildlife management area.
(7) "Youth" means a person who has not yet reached his 16th birthday by the date of the hunt.
(8) "Quota youth hunt" means a hunt in which only a youth is eligible to apply for the hunt and to take a deer and the youth must be accompanied by an adult.
(9) "Mentor hunt" means a quota youth hunt in which the adult accompanying the youth is eligible to take a deer.
(10) "Bonus quota hunt permit" means a permit which in conjunc-

- 748 -
tion with the statewide deer permit allows the holder to take additional
deer during a quota hunt.

Section 2. General WMA Requirements. (1) Unless specified otherwise
in this administrative regulation, statewide deer require-
ments shall apply to a WMA.
(2) [If specific] Deer hunting on WMA[s] listed in Section 4 of [data]
are given for a WMA-in this administrative regulation, shall be permit-
ted only as stated, except archery hunting is allowed under statewide
archery requirements unless otherwise noted. [A] person shall not hunt
deer except on those dates:
(3) On a WMA, Westvaco Public Hunting Area, the Daniel Boone
National Forest, Reelfoot National Wildlife Refuge, Land Between
the Lakes and the Big South Fork National River and Recreation Area, a
person:
(a) Shall not use a nail, spike, screw-in device, wire or tree climber
for attaching a tree stand or climbing a tree;[1]
(b) May use a portable stand or climbing device that does not
injure a tree;[2]
(c) Shall not place a portable stand in a tree more than two (2)
weeks before opening day, and shall remove it within one (1) week
following the last day, of each hunting period;[3]
(d) Shall plainly mark the portable stand with his name and ad-
dress; and[4]
(e) Shall not use an existing permanent tree stand.
(4) [Limits: A hunter shall not take more than one (1) deer from
each of the WMAs listed in Section 4 of this administrative regulation
except:
(a) Statewide limits shall apply to:
1. Adair WMA;
2. Barren River WMA;
3. The Pioneer Weapons Area;
4. Stewart Island;
5. Westvaco public hunting area; and
6. Yatesville WMA;
(b) A person shall not take more than two (2) deer on:
1. West Kentucky WMA;
2. Higgins-Henry WMA;
3. Dewey Lake WMA;
4. Taylorville Lake WMA; or
5. Yellowbank WMA;
(5) The owner of a private inhaling or his guest:
(a) May hunt on the owner's lands without application; and
(b) Shall follow all other requirements for the WMA which sur-
rounds the inhaling:
(6) [(6)] A person shall not hunt on a private inhaling when deer
hunting is not allowed on the surrounding WMA.
(6) [73] Except to travel through a WMA on an established public
road or to use an area designated open by a sign, a person without a
valid quota hunt confirmation number[5] shall not enter a WMA
during a quota hunt on that area.
(7) [(6)] Except if waterfowl hunting or hunting at night, a person
hunting any species or a person accompanying a hunter shall wear
hunter orange:
(a) That meets [Meeting] the requirements specified in 301 KAR
2:172; and[6][7][8]
(b) On a WMA when firearms are permitted for deer hunting.

Section 3. Quota Hunt Procedures. (1) A person selected for a
quota hunt,
(a) Shall hunt on the assigned date and in the assigned area; and
(b) May use a firearm, archery equipment or a crossbow during
the quota hunt as specified by the hunt.
(2) A person whose name is not selected pursuant to this admin-
istrative regulation shall not hunt during a quota hunt listed in this
administrative regulation or in 301 KAR 2:179.
(3) A person shall apply for a quota hunt drawing through an
automated telephone system by calling 1-877-868-4868 from a touch-
tone telephone between August 1 and August 31 and:
(a) Providing his Social Security number;
(b) Indicating his first and second choice of hunts; and
(c) Paying a three (3) dollar application fee for each application by:
1. Check;
2. Money order;
3. Visa; or
4. MasterCard.
(4) Five (5) or fewer persons may apply as a party by providing a
Social Security number and paying the application fee for each per-
son.
(5) A person shall not apply more than one (1) time.
(6) The department shall select hunters by a random drawing of all
applicants.
(7) A person checking in for a quota hunt shall show:
(a) His Social Security number;
(b) A valid Kentucky hunting, combination or senior/disabled
license, except a person on military furlough for more than three (3)
days may show his military identification instead of a license; and
(c) The receipt portion of a valid deer permit[6] with [if he possesses
a hunting or combination license]:
1. A valid deer permit with;[7] An unused carcass tag; or[8]
2. The receipt portion of a valid deer permit and:

   a. A bonus quota hunt deer permit;[9]

   b. [b.]: If the quota hunt is in a Zone 1 county as defined by 301
KAR 2:174, a bonus Zone 1 antlerless deer permit;[8][10]

   [c.]: If the person will hunt with bow or crossbow, a bonus ant-
lerless archery deer permit; or

   [d.]: If he possesses a senior/disabled license, the hand-made
cards as specified in 301 KAR 2:172.
(8) A person who was not selected and applies to hunt the follow-

ing year shall be given one (1) preference point for each year he was
not selected.
(9) If applying as a party, the application for the party shall be
assigned the preference points which reflects the highest number of
points of any individual member.
(10) Youth hunters may apply for one (1) youth quota hunt and one
(1) general quota hunt.
(11) A random selection of those with preference points shall be
made for each year's quota hunts before those without preference
points are chosen.
(12) [(109)] The commissioner may extend the application deadline
if technical difficulties with the automated application system prevent
applications from being accepted for one (1) or more days during the
application period.
(13) [(111)] A person shall check in and out daily for a quota hunt,
except as otherwise specified in this administrative regulation or by
the wildlife management area manager.
(14) [(112)] If checking out is required by this administrative regula-
tion, a person who does not check out by 8 p.m. shall not be eligible to
quota hunt the following year.
(15) If an antler spread limit is in effect on a WMA, a quota hunter
who harvests an antlered deer under the spread limit shall not be
eligible to apply for a quota hunt the following year.
(16) [(119)] Unless specified otherwise in Section 4 of this admin-
istrative regulation, a wildlife management area in two (2) or more
deer hunting zones as specified in 301 KAR 2:174 shall be governed by
the most liberal zone requirements of the zones in which it lies.
(17) Unless otherwise specified in Section 4 of this administrative
regulation, a hunter may take up to two (2) deer on a quota hunt, only
one (1) of which shall be an antlered deer.
(18) Bonus quota hunt permits can only be used for quota hunts.
Deer tagged with these permits do not count toward the statewide total
deer limit.

Section 4. WMA Hunting Dates and Requirements. (1) Adair
WMA,
(a) Youth hunt, any deer: open under statewide youth hunt, except
a person shall not hunt deer with a firearm.
(b) Crossbow: open under statewide deer requirements.
(2) Addington enterprises-Robinson Forest WMA,
(a) A person shall not hunt deer on the main block of Robinson
Forest.
(b) Muzzleloader and youth hunt: open under statewide deer re-
quirements, except a person shall not hunt deer with a modern fire-
arm.
(c) All deer hunters shall check in and check out.
(3) Ballard WMA.
(a) Quota youth hunt, any deer or antlerless deer as determined by a random drawing; two (2) consecutive days beginning the fourth Saturday in October.

(b) Quota hunt, any deer or antlerless deer as determined by a random drawing; the first Saturday in [and Sunday of] November.

(c) Archery quota hunt, any deer or antlerless deer as determined by a random drawing; two (2) consecutive days beginning the third Saturday in October.

(d) Area shall be closed to the statewide archery season.

(a) Crossbow, modern firearm, and muzzleloader; open under statewide deer requirements only on the 400 acre tract south of Selle [Selle] Crice Road.

(4) Barlow Bottoms Wildlife Management Area.

(a) On the Omisted [Lower-Booms] Unit: archery, muzzleloader and youth hunt; open under statewide deer requirements only through October 31.

(b) On the Swan Lake Unit: archery; open under statewide deer requirements only through October 14.

(c) On the Pears Unit: crossbow youth hunt, modern firearms, and muzzleloader; open under statewide deer requirements. [Statewide deer requirements shall apply to the 900 acre tract south of Terrell Landing Road]

(5) (c) Barren River Wildlife Management Area.

(a) On the Peninsula Unit, including Narrows, Goose and Grass Islands, a person:
1. [a]; Shall not:
   1. Hunt deer with a breech-loading firearm; and [1];
   2. Except as authorized by the department, carry a breech-loading firearm with ammunition in the chamber or magazine.

2. [b]; May hunt deer with a crossbow.

(b) Quota hunt, any deer; for two (2) consecutive days beginning the first Saturday in November.

(c) Youth hunt, any deer; open under statewide deer requirements [youth hunt].

(d) Crossbow, muzzleloader; open under statewide deer requirements.

(6) (f) Beaver Creek WMA.

(a) Archery hunt; antlered deer: the third Saturday in September through the third Monday in January; except during the quota hunt.

(b) Quota hunt, any [antlered] deer; two (2) consecutive days beginning the first Saturday in November. Limit: one (1) deer during the quota hunt.

(7) (f) Cane Creek WMA.

(a) Crossbow, modern firearms, and muzzleloader; open under statewide deer requirements, except a hunter shall not take an antlerless deer with a firearm during the modern firearm season. [Archery hunt: Zone 4 archery season dates and harvest restrictions shall apply.

(b) Gun hunt, antlered deer: two (2) consecutive days beginning the second Saturday in November.

(b) Youth hunt, any deer; open under statewide youth hunt.

(8) (f) Central Kentucky WMA.

(a) Archery hunt, any deer:
   1. Wednesdays between the fourth week in September through December 17, except during scheduled field trials as posted on the area bulletin board.
   2. December 18 through the third Monday in January.

(b) A deer hunter shall check in and check out.

(9) Claude Cummins WMA. Crossbow; open under statewide deer requirements.

(10) (f) Clay WMA.

(a) Archery [hunt], any deer: October 15 through the third Monday in January, except during the quota hunt.

(b) Quota hunt, any deer: two (2) consecutive days beginning the first Saturday [and Sunday of] November.

(c) Youth hunt, any deer; open during the statewide youth hunt.

(d) All deer hunters shall check in and check out.

(11) (f) Cummins Robinson Forest-WMA.

(a) Person shall not hunt deer:
   1. On the main block of Robinson Forest or
   2. With a firearm during the modern gun deer season.

(b) Archery, muzzleloader and youth hunt seasons shall correspond to Zone 5 harvest requirements.

(c) A deer hunter shall check in and check out.

(12) (f) Daviess County WMA. Crossbow; open under statewide deer requirements. [shall be closed to deer hunting]

(13) (f) Daviess County WMA. [Archery hunt: deer; the third Saturday in September through the third Monday in January; except during a quota hunt.

(b) Youth hunt, any deer: open during the statewide youth hunt. Limit: one (1) deer.

(c) [f6] A deer hunter shall not take an antlered deer whose antlers have an outside spread of less than fifteen (15) inches.

(14) [f7] Daviess County WMA. [Archery hunt: deer; the third Saturday in September through the third Monday in January; except during the quota hunt.

(b) Quota hunt, any [antlered] deer; two (2) consecutive days beginning the Saturday before Thanksgiving. Limit: one (1) deer.

(b) Youth hunt, any [antlered] deer; open during the statewide youth hunt.

(c) All deer hunters shall check in and check out.

(15) [f9] Grayson Lake WMA.

(a) Youth quota hunt [hunt], any deer: one (1) two (2) consecutive days beginning the first Saturday in November.

(b) The property of Camp Webb shall be open to hunting during the youth quota hunt.

(16) [f9] Grayson Lake WMA. [Archery hunt; crossbow hunt; any deer; the third Saturday in September through the third Monday in January; except during the quota hunt.

(c) An archery hunter shall check in and check out.

(c) A deer hunter shall not take an antlered deer whose antlers have an outside spread of less than fifteen (15) inches.

(17) (f14) Higginson-Henry WMA.

(a) Quota hunt, any deer [or antlerless deer as determined by a random drawing]; two (2) consecutive days beginning the first Saturday in December.

(b) All deer hunters [Archery hunt: any deer; the third Saturday in September through the third Monday in January; except during the quota hunt.

(c) A deer hunter:
   1. Shall check in and check out;
   2. May take two (2) deer;
   3. Shall not take more than one (1) deer during a quota hunt.

(c) A deer hunter shall not take an antlered deer whose antlers have an outside spread of less than fifteen (15) inches.

(18) (f15) Kentucky River WMA. Crossbow; open under statewide deer requirements.

(a) Quota hunt, Zone I harvest restrictions apply:
   1. Five (5) consecutive days beginning the second Saturday in November.
   2. Five (5) consecutive days beginning the day after the first quota
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

hunt ends:
(b) Archery hunt, any deer; the third Saturday in September through the third Monday in January, except during a quota hunt.
(c) A quota hunter may hunt without checking in or out.
(d) Statewide deer requirements shall apply for muzzle-loader, crossbow, and youth hunt seasons.
(18) [Troy] Kiser WMA.
(a) Quota hunt, any deer: two (2) consecutive days beginning the first Saturday in December.
(b) Youth hunt, any deer: open during the statewide youth hunt.
(19) [Archery hunt, any deer: the third Saturday in September through the third Monday in January, except during the quota hunt.
(c) Deer hunters shall check-in and check-out.
(17) Lapel WMA.
(e) Quota hunts, Zone 2 harvest restrictions apply:
1. Five (5) consecutive days beginning the second Saturday in November.
2. Five (5) consecutive days beginning the day after the first quota hunt ends:
(b) Archery hunt, any deer: the third Saturday in September through the third Monday in January, except during a quota hunt.
(c) A quota hunter may hunt without checking in or out.
(d) Statewide deer requirements shall apply for muzzle-loader, crossbow, and youth hunt seasons.
(18) Curtis Gates Lloyd WMA. Crossbow: open under statewide deer requirements.
(a) Quota hunts, Zone 2 harvest restrictions apply:
1. Five (5) consecutive days beginning the second Saturday in November.
2. Five (5) consecutive days beginning the day after the first quota hunt ends:
(b) Archery hunt, any deer: the third Saturday in September through the third Monday in January, except during a quota hunt.
(c) A quota hunter may hunt without checking in or out.
(d) Statewide deer requirements shall apply for muzzle-loader, crossbow, and youth hunt seasons.
(20) [19] Mill Creek WMA. (e) Archery hunt; any deer; the third Saturday in September through the third Monday in January, except during the quota hunt.
(b) Quota hunt, any [entered] deer: two (2) consecutive days beginning the first Saturday in November. Limit: one (1) deer.
(21) [20] Mud Camp Creek WMA. Crossbow: open under statewide deer requirements.
(a) Quota hunts, Zone 3 harvest restrictions apply:
1. Five (5) consecutive days beginning the second Saturday in November.
2. Five (5) consecutive days beginning the day after the first quota hunt ends:
(b) Archery hunt, any deer: the third Saturday in September through the third Monday in January, except during the quota hunt.
(c) A quota hunter may hunt without checking in or out.
(d) Statewide deer requirements shall apply for muzzle-loader, crossbow, and youth hunt seasons.
(22) [21] Mullins WMA. Crossbow: open under statewide deer requirements.
(a) Quota hunts, Zone 2 harvest restrictions apply:
1. Five (5) consecutive days beginning the second Saturday in November.
2. Five (5) consecutive days beginning the day after the first quota hunt ends:
(b) Archery hunt, any deer: the third Saturday in September through the third Monday in January, except during the quota hunt.
(c) A quota hunter may hunt without checking in or out.
(d) Statewide deer requirements shall apply for muzzle-loader, crossbow, and youth hunt seasons.
(23) Obion Creek WMA.
(a) Quota hunt, Zone 1 harvest restrictions apply:
1. Five (5) consecutive days beginning the second Saturday in November.
2. Five (5) consecutive days beginning the day after the first quota hunt ends:
(b) Archery hunt, any deer: the third Saturday in September through the third Monday in January, except during a quota hunt.
(c) A quota hunter may hunt without checking in or out.
(d) Statewide deer requirements shall apply for muzzle-loader, crossbow, and youth hunt seasons.
(24) Paintsville Lake WMA.
(a) Quota hunt, any deer: two (2) consecutive days beginning the first Saturday in November. Limit: one (1) deer.
(b) [Archery hunt; any deer; the third Saturday in September through the third Monday in January, except no archery hunting during the quota hunt.
(c) Youth hunt, any deer: open during the statewide youth hunt.
(d) A person participating in the quota hunt shall check-in and check-out.
(25) Peabody WMA.
(a) Quota hunt, any deer: five (5) consecutive days beginning the second Saturday in November. A quota hunter may hunt without checking in or out.
(b) Crossbow, modern firearm, and muzzleloader; eleven (11) [Gun hunt; any deer; five (5)] consecutive days beginning the Thursday day after the last day of the quota hunt. The first five (5) days shall be for antlered or antlerless deer; the remaining six (6) days shall be for antlerless only.
(c) Muzzleloader hunt, any deer: seven (7) consecutive days beginning the second Saturday in December.
(b) Youth hunt, any deer: open under statewide youth hunt, [Archery hunt, any deer; the third Saturday of September through the third Monday in January, except during quota hunt.
(e) The youth hunt shall be open under statewide requirements.
(26) Pioneer Weapons WMA.
(a) Quota hunt, any deer [or antlerless deer as determined by a random drawing]: two (2) consecutive days beginning the first Saturday in November.
(b) All deer hunters [Archery hunts: 1. Antlerless deer, the third Saturday in September through October 15.
2. Any deer; October 16 through the third Monday in January, except during the quota hunt.
(c) An archery hunter shall check in and check out.
(d) A deer hunter shall not take an antlered deer whose antlers have outside spread of less than fifteen (15) inches.
(27) Pioneer Weapons WMA. Crossbow: open under statewide deer requirements.
(a) Quota hunt, any deer: two (2) consecutive days beginning the first Saturday in December.
(b) Youth hunt, any deer: open under statewide youth hunt.
(27) Sloughs WMA.
(a) On the [Greenish Ead and Duncan Tract of the Saukemahr Unit; archery, muzzleloader and youth hunt; open under statewide deer requirements only through October 31.
(b) The remainder of the WMA: crossbow, modern firearm, muzzleloader and youth hunt: open under statewide deer requirements.
(30) [Archery hunt; any deer; the third Saturday in September through the third Monday in January, except during the quota hunt.
(31) [Stewart Island WMA.
(a) Muzzle-loader hunt, any deer: two (2) days beginning the fourth Saturday in October.
(b) Archery hunt, any deer: the third Saturday in September through October 14.
(32) T. N. Sullivan WMA. Crossbow: open under statewide deer requirements.
(33) R. F. Tarter WMA. Crossbow: open under statewide deer requirements.
(34) Swan Lake WMA: closed to deer hunting.
(35) R. F. Tarter.
(a) Quota hunts, Zone 3 harvest restrictions apply:
1. Five (5) consecutive days beginning the second Saturday in

- 751 -
November:
- Two (2) consecutive days beginning the second Saturday in October.

Archery hunt; any deer: the third Saturday in September through the third Monday in January, except during the quota hunts.
- [a] Quota hunters may hunt without checking in or out.
- [c] Quota hunts, any deer; [f] five (5) consecutive days beginning the second Saturday in November.

Statewide deer requirements shall apply for muzzleloader, crossbow, and youth season.
- [35] (35) Taylorsville Lake WMA.
- [a] Archery hunt; any deer: the third Saturday in September through the third Monday in January, except during the quota hunts.
- [b] Quota hunt, any deer: Two (2) consecutive days beginning the first Saturday in November, and [f] Two (2) consecutive days beginning the first Saturday in December.

Hunt, any deer: open during the statewide youth hunt.
- [c] All deer; [e] check in and check out daily.
- [e] A person;
  - [1] May take two (2) deer, and;
  - [2] Shall not take more than one (1) deer during a quota hunt.
- [35] Soldotna WMA.
- [a] Quota hunt; any deer: the third Saturday in September through the third Monday in January, except during the quota hunts.
- [b] Quota hunt, any deer: Two (2) consecutive days beginning the first Saturday in November, and [f] Two (2) consecutive days beginning the first Saturday in December.

- [e] All deer; [d] check in and check out daily.
- [e] A person;
  - [1] May take two (2) deer, and;
  - [2] Shall not take more than one (1) deer during a quota hunt.
- [35] Twin Eagle WMA. Crossbow, open under the statewide deer requirements.
- [a] Quota hunt, any deer: the second Saturday in December for persons with a disability which impairs their mobility.
- [b] The area shall be closed to the statewide archery season.
- [35] (35) West Kentucky WMA.

- [a] Archery hunts; any deer: the third Saturday in September through the third Monday in January, except that a person shall not attempt to hunt for nine (9) consecutive days beginning the Saturday following Thanksgiving, or the day before and during quota hunts.
- [b] Quota hunts, any deer: Two (2) consecutive days beginning the first Saturday in November, and [f] Two (2) consecutive days beginning the second Saturday in December.

- [c] Mentor (c) Youth quota hunt, any deer: two (2) consecutive days beginning the first Saturday in November. There shall be no more than two (2) youths for each mentor and no more than one (1) mentor for each youth.
- [d] Crossbow hunt, any deer: open during statewide crossbow season, the day following the youth quota hunt for eleven (11) consecutive days.
- [e] Firearm hunters; A gun hunter may not use a breach-loading rifle or breech-loading handgun.
- [f] A person shall not carry a firearm in a post office.
- [g] All deer hunters; A person shall not take more than two (2) deer from this WMA.

- [1] Two (2) deer may be taken by archery;
- [2] No more than one (1) deer shall be taken by gun;
- [h] A person shall check in and check out.
- [37] (37) Westvaco public hunting areas. Statewide deer requirements apply; in addition, a person hunting on Westvaco property:
  - [a] Shall possess a Westvaco Hunting Permit;
  - [b] Shall not hunt from or place a tree stand within fifty (50) yards of the property line; and
  - [c] The portion of the area south of the Westvaco Road shall be open to archery deer hunting through October 31 and closed to public access between November 1 and March 15.
- [38] (38) White City WMA.

Tourism Development Cabinet
Department of Fish and Wildlife Resources
(As Amended at ARRS, August 1, 2000)

301 KAR 2:179. State park deer hunts.

RELATES TO: KRS 148.029(5), 150.025(2), 150.105, 150.360, 150.350, 150.949(1), 150.710

STATUTORY AUTHORITY: KRS 148.023(5), 150.105, 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.029(5) authorizes the Department of Parks, in cooperation with the Department of Fish and Wildlife Resources, to implement wildlife management plans [remove, destroy, or disturb wildlife] on state parks. KRS 150.105 authorizes the Department of Fish and Wildlife Resources to permit [authorize] the destruction of animals that are causing damage to property or spreading disease. KRS 150.025(1) authorizes the Department of Fish and Wildlife to open seasons and make those seasons apply to a limited area of the state. This administrative regulation is necessary to allow controlled deer hunting at selected state parks to relieve serious overpopulations of white-tailed deer that are damaging the ecological integrity of the parks.

Section 1. Permitted Deer Hunting Within State Parks, [hunting for deer shall be allowed]; (1) Deer hunting shall be permitted on the first Saturday and Sunday of November [December] all
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(e) Gray Lake State Park, for any deer. The hunt shall be open to persons who have not yet reached their 16th birthday, [antlered or antlerless deer]; and

(2) Deer hunting shall be permitted on the first Saturday and Sunday of December at (b) Taylorses Lake State Park, for any [antlerless] deer. Open to persons [e-person] with a disability which impairs their (hes) mobility.

(3) Deer hunting shall be permitted (d) on the third Tuesday and Wednesday of December for any [antlered or antlerless] deer at Lake Cumberland State Resort Park and Dale Hollow State Park. A person shall:

(a) Not use a firearm or crossbow on these areas [this area]; and

(b) Wear hunter orange as specified in 301 KAR 2:172; Section 12; on a tractor designated by the park superintendent; and

(c) Remain in his assigned area.

(4) Deer hunting shall be permitted (f) on the first Tuesday and Wednesday of January for antlered or antlerless deer at:

(a) Lake Barkley State Resort Park;

(b) Dale Hollow State Resort Park;

(c) Greenbo Lake State Resort Park.

Section 2. A person shall not hunt on a state park unless he:

(1) Was selected by a random drawing pursuant to 301 KAR 2:178; or

(2) Is a member of the successful applicant’s hunting party.

Section 3. (1) A person shall:

(a) Check in:

1. Between 4 p.m. and 10 p.m. on the day before the hunt; or

2. After 5 a.m. on the day of the hunt;

(b) Furnish at check-in:

1. The authorization number as specified in 301 KAR 2:181, showing that he was a successful applicant for the hunt; and

2. A driver’s license or other form of personal identification.

(2) [A member of the successful applicant’s party shall check in with the applicant:]

(9) When checking in, a successful applicant [applicant- or a member of his party] shall show:

(a) Valid:

1. Current deer permit with an unfilled carcass tag;

2. Quota hunt deer permit with an unused carcass tag; or

3. If hunting with a senior/disabled license, the hand-made cards required by 301 KAR 2:172; and

(b) Unless exempt from licensing requirements by KRS 150.170(9), a valid Kentucky license and deer permit; [e]

1. Resident hunting license;

2. Resident combination hunting and fishing license;

3. Nonresident hunting license; or

4. Senior/disabled license;

Section 4. A person participating in the hunt:

(1) Shall:

(a) Comply with the provisions of [Wear hunter orange as required by] 301 KAR 2:172[49];

(b) Daily check deer taken at the designated park check station; and

(c) Check out by 8 p.m. except on Taylorses Lake State Park, where a hunter must only check out at the conclusion of his hunting; [e]

(d) Obey the provisions of 301 KAR 2:172(10) and (19).

(2) Shall not:

(a) Use a firearm, archery equipment or crossbow prohibited by 301 KAR 2:172;

(b) Take more than two (2) [one (1)] deer only one (1) of which may be antlered;

(b) [ce] Take a white deer at Dale Hollow State Resort Park;

(c) [cd] Tag an antlered deer with an “antlerless only” tag;

(e) Injure a tree by using:

1. A tree stand except a portable stand;

2. Climbing devices which nail or screw to the tree; or

3. Climbing spikes.

(d) [cg] Discharge a firearm within 100 feet of a maintained road;

(e) [ct] Hunt;

1. In an area posted as closed by signs; or

2. Outside the park boundaries.

(3) A person who does not check out as required by this administrative regulation shall not be eligible to apply for a quota hunt the following year.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
 TOM BAKER, Chairman
APPROVED BY AGENCY: March 3, 2000
FILED WITH LRC: April 13, 2000 at 11 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, August 1, 2000)

301 KAR 2:221. Waterfowl seasons and limits.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.600(1), 150.990, 50 CFR Parts 20, 21
STATUTORY AUTHORITY: KRS 150.025(1), 150.600(1), 50 CFR Parts 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.600(1) authorize the department to set waterfowl season dates and limits. This administrative regulation establishes the [is necessary to set] limits and dates within federal waterfowl hunting frameworks established by 50 CFR Part 20. This administrative regulation imposes a shorter season in the Ballard Reporting Area than permitted by federal frameworks in an effort to build Canada goose populations in that portion of the state.

Section 1. Definitions. (1) "Dark goose" means a Canada goose, white-fronted goose, or brant.

(2) "Snow goose" means a snow goose or Ross' goose.

(3) "Waterfowl" is defined by KRS 150.010(40).

Section 2. (1) Except as authorized by 301 KAR 2:222, 301 KAR 2:225, or 301 KAR 2:226, a person shall not take waterfowl except on the dates and within the limits prescribed by this administrative regulation.

(2) Hunting zones, special hunt areas and reporting areas are established (described) in 301 KAR 2:224.

Section 3. Gun and Archery Season Dates and Bag Limits for Duck, Coot, and Merganser. (1) Season dates. Statewide, Thanksgiving Day: November 25, 1999, until January 23, 2000, [the first Saturday in November for two (2) consecutive days and the third Saturday in November for fifty-eight (58) consecutive days;]

(2) The gun and archery daily limit shall be:

(a) Six (6) ducks, which shall not include more than:

1. Four (4) mallards, which shall not include more than two (2) hen mallards; [e]

2. Two (2) wood ducks; [e]

3. One (1) black duck; [e]

4. Two (2) redheads; [e]

5. One (1) pintail; [e]

6. One (1) canvasback; and [e]

7. Three (3) scap.

(b) Fifteen (15) coots.

(c) Five (5) mergansers, which shall not include more than one (1) hooded merganser.

(3) The possession limits shall be double the daily limit.

Section 4. Gun and Archery Seasons Dates and Bag Limits for Geese. (1) White-fronted goose and brant season dates: Thanksgiving Day through January 31 [56], except that hunting for dark geese in the Western Goose Zone shall cease if a quota specified in Section 7 of this administrative regulation is reached.

(2) Snow goose season dates.

(a) Regular season: Thanksgiving Day through January 31; except for the part of Fulton County in the Western Goose Zone, which
shall have an ending date of February 15.
(b) Conservation snow goose season: February 1 through March 31 except in the part of Fulton County in the Western Goose Zone, where the Conservation Snow Goose Season shall be February 16 through March 31. [Thanksgiving Day through March 16.]
(3) Canada goose season dates shall be the starting date listed below through January 31 [-December 12 through January 9], except:
(a) The last day of hunting shall be:
1. January 15 [in the part of Fulton County which is in the Western Goose Zone [14 in Fulton County];
(b) The season shall not open until:
1. December 4 in the Western Goose Zone;
2. December 11 in the Ballard Reporting Area;
3. December 13 in the Eastern Goose Zone;
4. December 28 [27] in the Pennroyoyal-Coalfield Goose Zone;
5. December 28 [2-January 9] in the West-Central Kentucky Hunt [Goose] Zone; and
(c) Hunting for dark geese in the Western Goose Zone shall cease if a quota specified in Section 7 of this administrative regulation is reached.
(4) A person shall not goose hunt in:
(a) Breathitt, Knott, and Perry counties; 
(b) The areas of Laurel River Lake as posted by signs; 
[c] The portions of Bell, Clay, Laurel, Pulaski and Whitley Counties owned by the U.S. Forest Service, including Laurel River Lake; 
(c) McCreary County east of US 27; 
(d) Cave Run Lake and the public land inside a boundary formed by Highways 801, 1274, 36, 211, US 80 and Highway 226 and 
[e] Martin County.
(f) The gun and archery daily limit shall be:
(a) Six (6) dark geese, to include no more than:
   1. Two (2) Canada geese;
   2. Two (2) white-fronted geese; and
   3. Two (2) brant.
(b) Twenty (20) snow geese; except there shall be no daily limit on snow geese during the Conservation Snow Goose Season.
(c) The possession limit shall be double the daily limit, except that there shall not be a possession limit on snow geese.
Section 5. Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:
(1) 2 p.m. in the Northeast Kentucky [Species] Hunt Zone during a Canada goose season; 
(2) Sunset in the remainder of the state, except as specified in 301 KAR 2:222 or [3]; 
(3) One-half (1/2) hour after sunset while hunting snow goose during the Conservation Snow Goose Season.
Section 6. Falconry Waterfowl Season and Limits. (1) Season dates:
(a) Snow geese [and Ross' geese]: November 25 through January 31 except in the part of Fulton County which is in the Western Goose Zone which shall have an ending date of February 15.
(b) Conservation Snow Goose Season, February 1 through March 31 except in the part of Fulton County which is in the Western Goose Zone, where the Conservation Snow Goose Season shall be from February 16 through March 31.
(c) [March 16.]
(b) Other waterfowl: November 5 through January 31.
(b) Daily limit: three (3) waterfowl, except that there shall be no limit on snow goose during the Conservation Snow Goose Season.
(c) Possession limit: six (6) waterfowl; except that there shall be no limit on snow goose during the Conservation Snow Goose Season.
Section 7. Quotas and Early Goose Season Closings. (1) If hunters reach a quota of 8,000 [9,800] Canada geese in the Ballard Reporting Area before January 22 [84], dark goose hunting shall cease in the Ballard Reporting Area.
(a) The department shall provide at least a twenty-four (24) hour notice of the time and date of an early closure.
Section 8. Permit for Conservation Snow Goose Season. (1) A person hunting snow geese during the Conservation Snow Goose Season shall first obtain a free permit from the department by contacting the Ballard WMA office at (270) 224-2244.
(b) A hunter during the Conservation Snow Goose Season shall submit a Conservation Snow Goose Season report by April 10.
(c) The report shall include the name and address of the hunter, the permit number, the number of days hunted and the total number of snow geese harvested.
DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: December 10, 1999
FILED WITH LAC: May 24, 2000 at 11 a.m.
TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARR, August 1, 2000)
301 KAR 2:251. Hunting and trapping seasons and limits for furbearers and small game.
RELATES TO: KRS 150.025(1), 150.340, 150.370(1), 150.399, 150.400, 150.410, 150.990
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes [gives] the department [authority] to establish hunting seasons and to regulate bag and possession limits for, and the methods of taking and the devices use to take wildlife. This administrative regulation is necessary to assure the permanent and continued supply of small game and furbearer species by protecting them from overharvest.
Section 1. Definitions. (1) "Conibear-type trap" means a commercially manufactured spring-loaded trap designed to kill the animal upon capture.
(2) "Dry land set" means a trap not set to drown an animal upon capture.
(3) "Foot-hold trap" means a commercially manufactured spring-loaded trap with smooth, metallic jaws which close upon an animal's foot.
(4) "Furbearers" mean (means) mink, muskrat, beaver, raccoon, opossum, gray fox, red fox, weasels or striped skunk.
(5) "Hunter" means a person hunting small game or furbearers with gun, gun and dog, bow and arrow, or dog, or by falconry.
(6) "Modern gun deer season" means the [five (5) or] ten (10) day or six (6) day period established by 301 KAR 2:172 during which hunters may take deer with breech-loading firearms.
(7) "Nonlocking snare" means a wire, cable or string loop without a device to keep the loop from loosening.
(8) "Padded trap" means a commercially manufactured foot-hold trap with metal jaws padded with a soft, nontoxic substance.
(9) "Small game" means squirrels, rabbits, quail or grouse.
(10) "Squirrel" means gray squirrel or fox squirrel.
(11) "Water set" means a trap set to drown an animal upon capture.
Section 2. Hunting and Trapping Seasons. Except as otherwise allowed by 301 KAR 2:049 or 301 KAR 2:125, a person shall not take the following wildlife except during the dates specified in this section:
(1) Squirrel;
- 754 -
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(a) The first Saturday in June for fourteen (14) consecutive days; and
(b) The third Saturday in August through January 31. The season shall be closed during the first weekend of modern gun deer season.
(2) Rabbis and quail: (November 1 through January 31 except)
(a) Western Zone: in the first and second wildlife districts, as specified in 301 KAR 4:010, the season shall be from the Monday following the opening of modern gun season until February 10.
(b) Eastern Zone: in the third through the ninth wildlife districts, as specified in 301 KAR 4:010, the season shall be from November 1st until January 31. The day after the modern gun deer season closes through January 31 in the first and second wildlife districts as stipulated in 301 KAR 4:010.
(b) The season shall be closed during the first weekend of modern gun deer season in the third through ninth wildlife districts as stipulated in 301 KAR 4:010.
(3) Grouse: the Monday [day] after the first weekend of modern gun deer season [closer] through the last day in February in Adair, Bath, Bell, Boyd, Bracken, Breathitt, Campbell, Carter, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fleming, Floyd, Garrard, Greenup, Harlan, Harrison, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owsley, Pendleton, Pine, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe Counties.
(4) Raccoon and opossum hunting: November 1 through noon on the day after the modern gun deer season.
(a) A person shall not trap during this period.
(b) During the modern gun deer season, a raccoon or opossum hunter shall not:
   1. Hunt during daylight hours;
   2. Carry a firearm except a .22 caliber rimfire firearm.
   3. Furbearers hunting and trapping: from noon the day after the modern gun deer season through noon, February 1.
   4. Extended beaver season: the month of February.
   5. Small game and furbearers taken by falconry: September 1 through March 31 [February 1].
   (8) There shall not be a closed season on:
      (a) Chasing red and gray foxes and rabbits during daylight hours for sport and not to kill; and
      (b) Chasing raccoons or opossums for sport and not to kill.

Section 3. Small Game Bag and Possession Limits.

<table>
<thead>
<tr>
<th>Animal</th>
<th>Daily</th>
<th>Possession</th>
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<tbody>
<tr>
<td>Squirrel</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>Rabbis</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Quail</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Grouse</td>
<td>4</td>
<td>8</td>
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</tbody>
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Section 4. Furbearer Bag [Hunter] Limits. (1) There shall not be a bag limit on furbearers except raccoons.
(2) A hunter shall not take more than two (2) raccoons (one-(1) raccoon) within a twenty-four (24) hour period from noon to noon.

Section 5. Limits by Falconry. A falconer hunting within the falconry season but outside the dates specified in Section 2(1) through (6) of this administrative regulation shall not take more than two (2) of any small game or furbearer species, singly or in the aggregate per day.

Section 6. Shooting Hours. A person shall not take small game or furbearers except during the times specified in this section.
(1) Small game or furbearers, except opossum and raccoon: daylight hours only.
(2) Raccoon and opossum: day or night, except that a person shall not hunt during daylight hours during the modern gun deer season.

Section 7. Use of Calls. A hunter may use hand- or mouth-operated call or attracting device.

Section 8. A hunter shall not possess buckshot [or a shotgun slug].

Section 9. Raccoon and Opossum Hunting Restrictions. (1) A hunter shall not use a light from a boat to take raccoon or opossum.
(2) Except as specified in subsection (3) of this section, a person chasing raccoon or opossum from noon, February 1 through October 31 shall not use or carry a:
   (a) Firearm;
   (b) Slingshot;
   (c) Tree climber;
   (d) Squelcher;
   (e) Similar device capable of killing, injuring or forcing a raccoon or opossum from a tree or den.
(3) A person participating in a department-approved raccoon dog trial sanctioned by one (1) of the following organizations may use a squelcher:
   (a) The American Coon Hunters Association; 
   (b) The American Kennel Club/American Coon Hunters Association;
   (c) The National Kennel Club;
   (d) The Professional Kennel Club;
   (e) The United Coon Hunters Association; and
   (f) The United Kennel Club.

Section 10. Trapping. (1) There shall not be daily or possession limit on a furbearer taken by trapping.
(2) A person trapping on dry land shall not:
   (a) Set traps closer than ten (10) feet apart; or
   (b) Use a trap except a:
      1. Deadfall;
      2. Wire cage or box trap;
      3. Number two (2) or smaller foot-hold trap;
      4. Padded trap with a jaw spread of six (6) inches or less;
      5. Number 220 or smaller conibear-type trap; or
      6. A nonlocking snare.
(3) There shall be no restrictions on a trap used as a water set except during the extended beaver season as specified in Section 11 of this administrative regulation.
(4) A trap shall not be set in a trail or path commonly used by a human or a domestic animal.
(5) A trapper may use lights from a boat or a vehicle.

Section 11. During the extended beaver season a trapper shall not:
(1) A dry land set; or
(2) A trap except a:
   (a) Number three (3) or larger foot-hold trap;
   (b) Padded trap with a jaw spread of at least five and one-half (5 1/2) inches;
   (c) Conibear-type trap with a jaw spread of at least eight (8) inches; or
   (d) A snare.

Section 12. Pheasant Quota Hunt. (1) There shall be pheasant quota hunts on the Green River Wildlife Management Area held on three (3) days, November 17, 18, and 19.
(2) Hunt hours for each day shall be from 9 a.m. to 4 p.m.
(3) The bag limit for each day shall be two (2) birds of either sex.
(4) Quota hunt procedures:
(a) A person selected for a quota hunt shall hunt on the assigned date and in the assigned area.
(b) A person whose name is not selected pursuant to this administrative regulation shall not hunt during a pheasant quota hunt listed in this administrative regulation.
(c) A person shall apply for a quota hunt drawing through an automated telephone system by calling 1-877-86U-HUNT from a touch-tone telephone between August 1 and August 31 and shall:
   1. Provide [Providing] his Social Security number;
   2. Indicate [indicating] his choice of hunt days; and
   3. Pay [Paying] a ten (10) dollar nonrefundable application fee for each application by:
      a. Check;
b. Money order;
c. Visa, or
d. MasterCard.
(e) Up to five (5) persons may apply as a party by providing a Social Security number and paying the application fee for each person in the party.
(f) Persons who have not yet reached their 18th birthday by the date of the hunt may only apply as part of a party that includes at least one (1) adult.
(g) A person shall not apply more than one (1) time for each hunt.
(h) The department shall select hunters by a random drawing of all applicants.
(i) A person checking in for a quota hunt shall show:
1. His Social Security number;
2. A valid Kentucky hunting, combination or senior/disabled license, except a person on military furlough for more than three (3) days may show his military identification instead of a license;
3. His quota hunt confirmation number; and
4. His hunter education card, if required.
(j) The commissioner may extend the application deadline if technical difficulties with the automated application system prevent applications from being accepted for one (1) or more days during the application period.
(k) A person shall check in and out daily for a quota hunt at the Green River Wildlife Management Area.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: June 15, 2000
FILED WITH LRC: June 15, 2000 at 11 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, August 1, 2000)

301 KAR 3:02S. Access to wildlife management areas for mobility-impaired individuals.

RELATES TO: KRS 150.025(1), 150.170, 150.175, 150.620
STATUTORY AUTHORITY: KRS [1994-95]: 150.025(1), 150.620
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)

authorizes [gives] the department [authority] to establish hunting seasons and to regulate bag and possession limits for, and the methods of taking and the devices used to take, wildlife. In addition, KRS 150.620 allows the department to regulate the use of its wildlife management areas. This administrative regulation will simplify the process for obtaining hunting method exemptions for mobility-impaired individuals and will also increase access and hunting opportunities for mobility-impaired individuals.

Section 1, Definitions. (1) "ATV" means all-terrain vehicle as defined in KRS 189.010(24).
(2) "Department" means the Kentucky Department of Fish and Wildlife Resources.
(3) "Mobility-impaired individual" means an individual with a permanent physical impairment as follows:
   (a) Has permanent paralysis of at least one (1) leg; [2]
   (b) Has at least one (1) foot amputated; [2]
   (c) Is permanently confined to a wheelchair or must use crutches, or a walker as a means of support to pursue daily activities; [3]
   (d) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mmHg on room air at rest; [5]
   (e) Requires portable oxygen; [5]
   (f) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class 3 or Class 4 according to standards set by the American Heart Association; or [3]
   (g) Has a diagnosed disease which creates a severe mobility impairment.
   (4) "Motor vehicle" means any vehicle as defined in KRS 189.010(19).
   (5) "Qualified assistant" means an individual who is legally participating in the activity with the mobility-impaired individual and designated by the mobility-impaired individual.
   (6) "Watercraft" means any vessel as defined by KRS 235.010.
   (7) "WMA" means Wildlife Management Areas owned or operated by the department.

Section 2, Mobility-impaired Access Permit. (1) The department shall issue to qualified individuals a mobility-impaired access permit that allows the following activities by the mobility-impaired individual:
   (a) Discharge of a firearm or other legal hunting device from a motor vehicle or watercraft when the vehicle is motionless and has its engine turned off. The motor vehicle may only be used as a place to wait for game and shall not be used to chase, pursue, or drive game.
   (b) May operate electric wheelchairs, ATV's, and other passenger vehicles on ungated or open-gated roads otherwise closed to vehicular traffic but only on designated tracts of designated WMA's. Those WMA's with designated tracts where this rule applies shall be designated in the "Kentucky's Accessible Public Fishing, Hunting, and Wildlife Viewing Sites". Tracts designated as mobility-impaired access areas will be posted with signs. This access rule does not permit vehicular access on field borders, openings, roads, paths, or trails planted to wildlife food, cover, or agricultural crops.
   (c) May designate one (1) qualified assistant. The qualified assistant may track and dispatch a wounded animal, retrieve an animal, and render other assistance in accordance with this administrative regulation, KRS Chapter 150 and any administrative regulations promulgated thereunder. The qualified assistant shall not use any vehicle as a blind, unless such person meets the requirements of this administrative regulation.
   (2) Applicants for a mobility-impaired access permit shall obtain from the department a form that provides the following information:
      (a) Applicants name, ID number, mailing address, and phone number; and [5]
      (b) A statement from a Kentucky-licensed physician which includes the physician's name, address, description of impairment, and signature, attesting that the applicant is a mobility-impaired individual as defined in Section 1 of this administrative regulation.
   (3) In order to participate in activities allowed by this administrative regulation, a mobility-impaired individual shall have a mobility-impaired access permit on his person at all times while participating in such activities.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: March 3, 2000
FILED WITH LRC: May 24, 2000 at 11 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, August 1, 2000)

301 KAR 6:005. Boat registration fees.

RELATES TO: KRS 235.040, 235.050, 235.070, 235.080
STATUTORY AUTHORITY: KRS 235.080 [1998-RG-HB-717]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.080

authorizes [1998-RG-HB-717 removed] [boat registration fees from entrance-fee grants] [created] the department to establish boat registration fees [by administrative regulation]. This administrative regulation establishes the registration fees for the various classes of motorboats.

Section 1, The annual registration fees shall be for motorboats:
   (1) With electric motors as the sole source of propulsion - five (5) dollars; [1]
   (2) With outboard motors:
      (a) Class A - ten (10) dollars; for the registration period that begins
(c) [Any] Attached equipment necessary to the mechanical operation of the machinery. "Machinery" shall not include [any] tangible personal property [purchased and] used [by the qualified business] to maintain, restore, mend or repair machinery.

(9) "New business" is defined in KRS 154.45-010(6).

(10) "Public-assistance" means, but is not limited to, Kentucky Transitional Assistance Program benefits, food stamps, or Medicaid benefits.

(11) "Qualified business" is defined in KRS 154.45-010(7).

(12) "Remodeling" means the alteration of an existing building or structure if [where] the value for property tax purposes is increased by at least twenty (20) percent.

(13) "Rehabilitation" means the restoration from a state of decay of an existing building or structure [from a state of decay] that has been unoccupied for a continuous period of at least twelve (12) months.

(14) "[Substantial performance in the zone]" means a service [services] performed by an employee of a qualified business either:

(a) At the location of the qualified business in the enterprise zone; or

(b) Outside the enterprise zone, if:

1. [as long as] The service [services] performed outside the enterprise zone is [are exclusively] directed exclusively from the location of the qualified business within the enterprise zone; and

2. The employee does not have a separate business location outside the enterprise zone.

(15) "Targeted workforce" is defined in KRS 154.45-010(9).

(16) "Unemployed" means a person who received wages or received wages of more than $1,000 or less of income from wages for the most recent ninety (90) day period prior to being hired by a [the] business located within the enterprise zone [for which information is available to employment services]. KRS 154.45-650 establishes and directs the Enterprise Zone Authority of Kentucky (hereinafter referred to as the authority) to organize and regulate the implementation of the Enterprise Zone Act. This administrative regulation is being amended to comply with the deficiencies found during quadrennial review by the Task Force on Economic Development. This administrative regulation sets forth definitions:

Section 1. Definitions. (1) "Qualified business" is governed by KRS 154.45-655(5):

(2) Employees shall include all full-time employees and all part-time employees who are employed on a regular basis by the business physically located within the zone, and must not be the result of a dismissal.

(3) "Substantial performance in the zone" means any business performed outside of the zone area only if the business originates in the office of the business physically located within the zone; if the employees are dispatched from that office and if the employees are required to report to that office.

(4) New business data source means the Department for Social Insurance; Division of Unemployment Insurance or the Department for Employment Services; Human Resources Cabinet.

EMILY BURKS BROWN, Legal Counsel
APPROVED BY AGENCY: June 15, 2000
FILED WITH LRC: June 15, 2000 at 10 a.m.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe permits to discharge into any waters of the Commonwealth. KRS 224.16-050 further empowers the cabinet to issue federal permits pursuant to 33 USC Section 1342(b) of the Federal Water Pollution Control Act. KRS 224.20-110 authorizes the cabinet to regulate the emission or discharge of air contaminants into the air under the jurisdiction of the Commonwealth. This administrative regulation establishes certain conditions applicable to KPDEs permits for concentrated animal feeding operations.

Section 1. Applicability. This administrative regulation applies to beef, dairy, poultry, and swine concentrated animal feeding operations.

Section 2. Owner and Operator Liability. (1) All persons who own or operate a concentrated animal feeding operation shall sign an application for and obtain a KPDEs permit. This includes a person who enters into a contract with an owner or operator of a concentrated animal feeding operation if the person:
   (a) Owns the animals;
   (b) Directs the manner in which the animals will be housed or fed; or
   (c) Controls the inputs or other material aspects of the concentrated animal feeding operation.

(2) All owners and operators of a concentrated animal feeding operation shall jointly and severally liable for complying with the KPDEs permit.

### BEEF SITING CRITERIA

<table>
<thead>
<tr>
<th>SETBACK FEATURE,</th>
<th>BARN, LAGOON</th>
<th>LAND APPLICATION AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling not owned by applicant, church, school, schoolyard, business, other structure to which the general public has access, park,</td>
<td>1,500 feet</td>
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<td>1,000 feet</td>
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<td>2,000 feet</td>
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</tr>
<tr>
<td>Lake, river, blue-line stream, karst feature</td>
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<tr>
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<tr>
<td>Downstream, water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water; or outstanding state resource water,</td>
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<tr>
<td>5 miles</td>
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<td>150 feet</td>
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Measured along gradient

Designated outstanding state resource waters are listed in 401 KAR 5:026

Existing at the time the first KPDEs permit is issued

For existing operations, land application setbacks do not apply

### DAIRY SITING CRITERIA

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<th>LAND APPLICATION AREA</th>
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</table>

Measured along gradient

Designated outstanding state resource waters are listed in 401 KAR 5:026

Measured from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature

Existing at the time the first KPDEs permit is issued

For existing operations, land application setbacks do not apply
SWINE SITING CRITERIA

<table>
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(d) The cabinet may grant a variance from the setbacks in this section for a dwelling not owned by the applicant, or church if the applicant obtains from the owner of the property in question an easement, properly filed of record, granting the applicant a permanent exemption from the distance requirements in this administrative regulation. A certified copy of this easement shall be submitted to the cabinet with the permit application.

Section 4. Permanent Litter Storage. (1) Poultry concentrated animal feeding operations shall provide permanent litter storage structures by October, 2001.

(2) The requirements of Section 3(3) of this administrative regulation shall not apply to the siting of permanent litter storage structures on poultry concentrated animal feeding operations in existence prior to February 14, 2000.

Section 5. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

JUSTICE CABINET
Sex Offender Risk Assessment Advisory Board
(As Amended at ARR5, August 1, 2000)

501 KAR 6:190. Approval process [Certification procedures] for mental health professionals performing comprehensive sex offender presence evaluations and treatment of sex offenders [sex offender risk assessment].

RELATES TO: KRS 17.556 to 17.991
STATUTORY AUTHORITY: KRS 17.554(1), 17.564
NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(1) authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish [certification standards for mental health professionals providing court-ordered comprehensive sex offender presence evaluations and treatment of [risk assessments] for] sex offenders. This administrative regulation establishes approval [certification] requirements to assure the quality of court-ordered comprehensive sex offender presence evaluations and treatment of sex offenders [evaluation] [risk assessments].

Section 1. Definitions. (1) "Approved provider" is defined by KRS 17.550(3).

(2) "Board" is defined by KRS 17.550(1).

(3) "Certified provider" is defined by KRS 17.556(6).

(4) "Comprehensive sex offender presence evaluation" means a comprehensive mental health evaluation by an approved provider that includes a focus on the clinical data necessary to address the four factors listed in KRS 17.554(2).

(5) "Corrective action plan" means a plan submitted by the ap-
VOLUME 27, NUMBER 3 — SEPTEMBER 1, 2000

proven provider and accepted or imposed by the board that requires
an approved [e-certified] provider to take specific steps to be in com-
pliance with this administrative regulation. [The plan shall be:
(a) Submitted by the certified provider and approved by the board;
or
(b) Imposed by the board:]
(2) [(4)] ["Certified," means by order of any circuit court judge
for an offender to be evaluated [assessed] by an approved [e-certified]
provider to determine the offender’s risk of recommitting a sex crime,
emancipability to sex offender treatment; and the nature of the required
sex offender treatment; and the threat posed to public safety;]
[(5) "High risk sex offender" is defined by KRS 17.550(5);]
[(6) "Low risk sex offender" is defined by KRS 17.550(6);]
(7) "Mental or behavioral abnormality" is defined by KRS
17.550(7);]
(8) "Moderate risk sex offender" is defined by KRS 17.550(8);]
(9) "Personality disorder" is defined by KRS 17.550(9);]
(10) "Risk assessment" means:
(a) The evaluation of the sex offender’s characteristics, using:
1. The factors listed in KRS 17.554(2); and
2. The factors addressed by the following instruments:
   a. Rapid Risk Assessment for Sex Offender Recidivism (RRA-
   SROR), (1997 Edition); Solicitor General of Canada;
   b. Minnesota Sex Offender Screening Tool—Revised (MnSOST-
   R), (1998 Edition); Minnesota Department of Corrections;
   c. Violence Risk Appraisal Guide (VRAG), (1998 Edition); Ameri-
   can Psychological Association; including the Harvard Psychopathy
   Checklist—Revised—Interview and Information Schedule (PGL-I);
   (1991 edition), Multi-Health Systems, Inc.;
(b) To reach a recommendation of the:
1. Level of risk that an offender will recommit a sex crime; and
2. Threat posed to public safety;]
[(5) [(4)] "Sex crime" is defined by KRS 17.500(5);]
[(6) [(2)] [(1)] "Sex offender" is defined by KRS 17.550(2);]
[(6) [(10)] [(9)] "Supervised provider" means an approved [e-certified]
provider who has been approved [certified] under subsection (2) of this
administrative regulation to provide comprehensive sex offender pre-
sentence evaluations [risk assessments] under the direct supervision of
a supervisor;]
[(9) [(14)] [(13)] "Supervisor" means an approved [certified] provider
who has been approved [certified] under Section 2(1) of this adminis-
trative regulation and who examines and approves the evaluations
[risk assessments] of a supervised provider:]
[(10) [(11)] [(45)] "Victim" is defined by KRS 421.500(1).]

Section 2. Qualifications of Approved [Certified] Providers [and
Supervised—Provider]. [(4)] To qualify as an approved [e-certified]
provider, an applicant shall, in addition to meeting the requirements
of KRS 17.550(3):
[(1) [(6)] [(3)] Have completed forty [(30)] thirty-two to thirty-two hours of
special training provided by or approved by the board under Section 8 of
this administration regulation including the following:
(a) [1] Characteristics and offense patterns of sex offenders;
(b) [9] Treatment modalities used with sex offenders;
(c) [3] Legal and ethical issues in the risk assessment of sex
offenders;
(d) [4] Victim’s issues, not to exceed two (2) hours of credit
against the total requirement;
(e) [5] Issues related to the assessment of juvenile and female
sex offenders; and
(f) Use of the appropriate actuarial or evaluation instruments;
(6) Use of the actuarial instruments and risk assessment guides
listed in Section 1(10)(a) of this administrative regulation;]
[(2) [(b)] [(6)] Be in compliance with the ethical standards of profes-
sional practice as promulgated by the Kentucky licensing or certifying body
under which he has [qualified mental health] professional status; and
(c) Have one (1) year documented experience conducting sex
offender evaluations or assessments or he shall complete a thirty [(90)]
hour practicum administered by the board within the [first year of prac-
tice after certification]; and
(d) Be a qualified mental health professional as defined by KRS
202A.01(12)];

(3) Have a minimum of 250 hours documented experience conducting sex offender evaluations and clinical contact in sex offender treatment, including a minimum of:
(a) Sixty (60) hours documented experience conducting sex offender evaluations or complete a practicum as described in Section 6 of this administrative regulation; and
(b) 190 hours documented clinical contact conducting sex offender treatment or complete a practicum as described in Section 6 of this administrative regulation.
[(6) [(2)] To qualify as a supervised provider, an applicant shall:
(a) Meet the requirements of subsection (1)(a) of this section;
(b) Be in compliance with the ethical standards promulgated by the appropriate employing agency listed in paragraph (c) of this subsection;
(c) Be an employee of the Department of Corrections; Division of Mental Health; Department of Juvenile Justice; or Department of Mental Health and Mental Retardation Services, including an employee of a community mental health center;
(d) Have applied for approval [certification] with the board by March 31, 1999;
(e) Maintain full-time employment with one (1) of the departments listed in paragraph (a) of this subsection as of March 31, 1999; and
(f) Have met one (1) of the following requirements:
1. Have a master’s degree in psychology, social work, counseling, social gerontology, education, or marriage and family therapy and one (1) year of counseling experience; or
2. Have a bachelor’s degree in psychology, social work, counseling, social gerontology, education, or marriage and family therapy and two (2) years counseling experience;]

Section 3. Duties. (1) If an approved [e-certified] provider performs a comprehensive sex offender presentence evaluation [risk assessment] for a sex offender, he shall not provide treatment for personal financial gain for the sex offender for six (6) months following that assessment.
(2) If an approved provider has provided treatment for a sex offender, he shall not perform a comprehensive sex offender presentence evaluation for personal financial gain for the sex offender for six (6) months following the treatment.
(3) An approved provider shall:
(a) Submit the first four (4) evaluations prepared after becoming an approved provider for review by the board;
(b) Comply with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status; and
(c) Complete eight (8) hours of continuing education approved or provided by the board in each calendar year after becoming an approved provider. If an approved [e-certified] provider is not a supervised provider, he shall:
(a) Submit the first four (4) evaluations [risk assessments] prepared after board approval [certification] for review by the board;
(b) Comply with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has [qualified mental health] professional status; and
(c) Complete eight (8) hours of continuing education approved or provided by the board on an annual basis.
(5) A supervised provider shall:
(a) Comply with the requirements of subsection (2)(a) and (c) of this section;
(b) Comply with the ethical standards promulgated by the employing agency listed in Section 2(2)(c) of this administrative regulation; and
(c) Comply with the ethical standards of professional practice as promulgated by the licensing or certifying body under which he is licensed or certified in a mental health profession;]

Section 4. Approval [Certification] Procedures. (1) The board shall approve [certify] an applicant as an approved [e-certified] provider if he meets the applicable qualifications specified in Section 2 of this administrative regulation and is not otherwise disqualified by the provisions of Section 5 of this administrative regulation.
(2) An individual may apply to the board for approval status [certi-
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

Section 5. Denial or Revocation of Approval [Certification]. (1) The board shall deny, suspend or revoke approval [certification] if an applicant or an approved [certified] provider has:

(a) Has been convicted of or pled guilty to a felony criminal offense or a misdemeanor offense against a person;
(b) Has had a domestic violence protective order issued against him within the previous five (5) years;
(c) Has failed to meet the qualifications for approval [certification] set forth in Section 2 of this administrative regulation;
(d) Failed to be in compliance with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status; [No longer maintains full-time employment with one (1) of the departments listed in Section 2(1)(c) of this administrative regulation, and is a supervised provider];
(e) Has developed a relationship with the sex offender being assessed other than that necessary to adequately perform a risk assessment;
(f) Has an alcohol or drug abuse problem as defined in KRS 222.005(12);

Section 6. Practicum Requirements. (1) A practicum required by Section 2 of this administrative regulation shall be conducted by an approved provider who shall:

(a) Have a minimum of 2000 hours of experience conducting sex offender evaluations and clinical contact in sex offender treatment, including a minimum of:
   1. 500 hours conducting sex offender evaluations; and
   2. 1500 hours of clinical contact in sex offender treatment;
(b) Be an approved provider in good standing with the board;
(c) Submit a request to conduct a practicum for each participant and be approved by the board to conduct the practicum;
(d) Directly observe the practicum participant’s clinical practice in person or through video or audio tape;
(e) Examine and approve all comprehensive sex offender presence evaluations performed by the practicum participant; and
(f) Give written notice to the board if he determines that the

Section 5. Denial or Revocation of Approval [Certification]. (1) The board shall deny, suspend or revoke approval [certification] if an applicant or an approved [certified] provider has:

(a) [Has been convicted of or pled guilty to a felony criminal offense or a misdemeanor offense against a person;]
(b) [Has had a domestic violence protective order issued against him within the previous five (5) years;]
(c) [Has failed to meet the qualifications for approval [certification] set forth in Section 2 of this administrative regulation;]
(d) [Failed to be in compliance with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status; [No longer maintains full-time employment with one (1) of the departments listed in Section 2(1)(c) of this administrative regulation, and is a supervised provider];
(e) [Has developed a relationship with the sex offender being assessed other than that necessary to adequately perform a risk assessment;]
(f) [Has an alcohol or drug abuse problem as defined in KRS 222.005(12);]

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(b) Be an approved provider in good standing with the board;
(c) Submit a request to conduct a practicum for each participant and be approved by the board to conduct the practicum;
(d) Directly observe the practicum participant’s clinical practice in person or through video or audio tape;
(e) Examine and approve all comprehensive sex offender presence evaluations performed by the practicum participant; and
(f) Give written notice to the board if he determines that the
practicum participant's performance does not comply with the provisions of this administrative regulation, 501 KAR 6:200, or 501 KAR 6:220.

(2) To complete a practicum required by this administrative regulation, the participant shall:
(a) Have a minimum of four (4) hours of face-to-face contact with the approved provider conducting the practicum each month, which shall include case discussion, review of reading assignments, skill building, and review of audio or video tape of actual clinical practice;
(b) Obtain a minimum of sixty (60) hours experience conducting sex offender evaluations;
(c) Obtain a minimum of 199 hours of clinical experience with face-to-face contact conducting sex offender treatment;
(d) Participate in the practicum for a minimum of six (6) months; and
(e) Meet the requirements of the practicum within a maximum of eighteen (18) months.

(3) If an applicant has a portion of the minimum hours required to qualify as an approved provider in Section 2(3) of this administrative regulation, he shall participate in the practicum as described in subsections (1) and (2) of this section and may obtain only the hours needed to meet the minimum qualifications in Section 2(3) of this administrative regulation. [Scope of Supervision Requirements. A supervisor shall:
(1) Not supervise more than six (6) supervised providers concurrently;
(2) Directly observe the supervised provider's clinical practice in person or through video or audio tape;
(3) Conduct at least one (1) hour per week of face-to-face supervision, including case discussion, review of reading assignments, skill building, and review of audio or video tape of actual clinical practice with the supervised provider;
(4) Examine and approve all comprehensive sex offender presentence evaluations [risk assessments] performed by the supervise provider; and
(5) Give written notice to the board if he determines that the supervised provider's performance does not comply with the provisions of this administrative regulation.]

Section 7. Monitoring. (1) The board may [shall]:
(a) Investigate a formal complaint, verified by affidavit, concerning an approved [certified] provider, if the complaint alleges a failure to comply with the provisions of this administrative regulation; and
(b) Refer a complaint against an approved [certified] provider, which relates to an unethical practice or practice which may be outside the approved [certified] provider's scope of practice, to the appropriate Kentucky licensure or certification board.

(2) The board may investigate and evaluate an approved [certified] provider's adherence to the provisions of this administrative regulation, 501 KAR 6:200, or 501 KAR 6:220, on its own initiative.

(3) Board staff may monitor by the following activities:
(a) Interviewing a sex offender or victim, if consent is given by the sex offender or victim for the interview;
(b) Reviewing evaluation or treatment [assessment] records maintained by an approved [certified] provider on a sex offender;
(c) Direct observation of the evaluation or treatment [risk assessment] of a sex offender; or
(d) Interviewing judicial, correctional, law enforcement officials or other agency personnel that interact with an approved [certified] provider in relation to comprehensive sex offender presentence evaluations or treatment of sex offenders [sex offender risk assessments].

(4) If an approved [certified] provider fails to comply with provisions of this administrative regulation, the board shall notify him in writing of its determination and may:
(a) Revoke the approved [certified] provider to submit a corrective action plan for approval by the board;
(b) Issue a corrective action plan; or
(c) Revoke approval [certification] in accordance with Section 5 of this administrative regulation.

(5) If the board requires an approved [certified] provider to comply with a corrective action plan, it shall review plan compliance within ninety (90) [sixty (60)] days.

(6) If the board determines that a supervisor fails to conduct the required supervision of a supervised provider, the board shall notify the supervisor, the supervised provider, and the supervised provider's employer in writing of its determination and may:
(a) Require the supervisor to submit a corrective action plan;
(b) Impose a corrective action plan upon the supervisor;
(c) Prevent the supervisor from continuing to supervise; or
(d) Suspend the approval [certification] of the supervised provider.

(7) If the corrective action plan does not correct the supervision problem within sixty (60) days; or if the supervisor notifies the board that he shall no longer supervise the supervised provider; then the board shall suspend the approval [certification] of the supervised provider until another supervisor is available and willing to provide the supervision required in Section 6 of this administrative regulation.

Section 8. Approval of Specialty Training and Continuing Education. (1) Specially approved.
(a) Specially approved, as required in Section 2(6) of this administrative regulation, shall be approved or [by the board; if not] provided by the board;
(b) An approved [certified] provider seeking approval of a specially approved training course shall submit to the board the following:
1. A certificate of attendance which shall include the number of hours of training received; and
2. An agenda from the training seminar that [which] describes topics and length of time spent on each topic.
(c) The board may require the applicant to provide course materials from the training seminar or additional information, if it is unable to adequately determine the nature or relevance of the training provided at the seminar from the materials submitted under subsection (1)(b) of this section.

(2) Continuing education.
(a) Continuing education, as required in Section 3(2)(c) of this administrative regulation, shall be approved or [by the board; if not] provided by the board;
(b) An approved [certified] provider seeking approval of continuing education hours shall submit to the board the following:
1. A certificate of attendance that [which] shall include the number of hours of education received.
2. An agenda from the seminar, which describes topics and length of time spent on each topic.
(c) The board may require the applicant to provide course materials from the seminar or additional information, if it is unable to adequately determine the nature or relevance of training provided at the seminar from the materials submitted under subsection (2)(b) of this section.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Rapid Risk Assessment for Sex Offender Recidivism (RRA-SGR), (1997 Edition); Solicitor General of Canada;
(b) Minnesota Sex-Offender Screening Tool—Revised (MnSOST-R); (1999 Edition); Minnesota Department of Corrections; and
(c) Violence Risk Appraisal Guide (VRAG); (1999 Edition); American Psychological Association, including the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL:R); (1999 Edition); Multi-Health Systems, Inc.
(d) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, 2439 Lawrenceburg Road, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4:30 p.m.

Section 10. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

GARY L. DENNIS, Ph.D., Chairman
STEPHEN P. DURHAM, General Counsel
TAMELA BIGGS, Staff Attorney
APPROVED BY AGENCY: May 4, 2000
FILED WITH LRC: May 15, 2000 at 9 a.m.

- 762 -
JUSTICE CABINET
Sex Offender Risk Assessment Advisory Board
(As Amended at ARRS, August 1, 2000)

VOLUME 27, NUMBER 3 -- SEPTEMBER 1, 2000

501 KAR 6:200. Comprehensive sex offender presence
evaluation [risk assessment] procedure.

RELATES TO: KRS 17.550 to 17.991
STATUTORY AUTHORITY: KRS 17.564(2), 17.564
NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(2)
authorizes the Sex Offender Risk Assessment Advisory Board to
promulgate administrative regulations to establish a comprehensive
sex offender presence evaluation [risk assessment] procedure for
court-ordered evaluations [risk assessments] of sex offenders. This
administrative regulation establishes the evaluation [risk assessment]
procedure to assure the quality of court-order comprehensive sex
offender presence evaluations [risk assessments].

Section 1. Definitions. (1) "Amenability to treatment" means at
the time of the evaluation, the offender is free from organic or psychologi-
cal impairment that shall prevent the offender from engaging mean-
ingfully in sex offender treatment and he is, at least minimally, recep-
tive to the treatment process.
(2) "Appropriate setting" means a secure institutional setting or a
community-based setting.
(3) "Approved provider" is defined by KRS 17.550(3).
(4) "Board" is defined by KRS 17.550(1).
(5) "Certified provider" is defined by KRS 17.550(4).
(6) "Clinically adjusted" means changing the risk level rec-
ommendation based on facts or evidence which indicate to an ap-
proved [certified] provider that the probability of recidivism ranges
are inappropriate for a sex offender.
(7) "High risk sex offender" is defined by KRS 17.550(3).
(8) "Low risk sex offender" is defined by KRS 17.550(6).
(9) "Moderate risk sex offender" is defined by KRS 17.550(4).
(10) "Comprehensive sex offender presence evaluation" means
a comprehensive mental health evaluation by an approved provider
that includes a focus on the clinical data necessary to address the four
factors listed in KRS 17.554(2).
(11) "Nature of required sex offender treatment" means the treat-
ment management issues including recommendations for the focus of
treatment, special treatment considerations, further evaluation, and
restrictions to minimize the risk of recidivism.
(12) "Risk of recommitting a sex crime" means a designation of
high or not high risk based on the finding of the instrument and other
clinically relevant data where sexual reoffense is more likely than not.
(13) "Risk assessment" means:
(a) The evaluation of the sex offender's characteristics, using:
ph. The factors listed in KRS 17.554(2); and
2. The factors addressed by the following instruments:
a. Rapid Risk Assessment for Sex Offender Recidivism (RRA-
SOR); (1997 Edition); Solicitor General; Canada;
b. Minnesota Sex Offender Screening Tool—Revised (MnSOST-
R); (1998 Edition); Minnesota Department of Corrections; and
c. Violence Risk Appraisal Guide (VRAG); (1998 Edition); Ameri-
can Psychiatric Association; including the "Pare Psychopathy
Checklist—Revised: Interview and Information Schedule" (PCL-R);
(1995 Edition); Multi-Health Systems, Inc.
(b) To reach a recommendation of:
1. Level of risk that an offender will recommit a sex crime; and
2. Threat posed to public safety;
(14) "Sex offender" is defined by KRS 17.550(2).
(15) "Treatment effectiveness" is defined in KRS 197.400
[11] "Threat to public safety" means the offender's immediate risk
of committing another sexual offense.

Section 2. Comprehensive Sex Offender Presence Evaluation
Procedures. (1) An approved provider shall conduct a comprehensive
mental health evaluation following the professional standards of care
in the area of his certification or licensure. This shall include a face-to-
face interview and a review of collateral information. When the results
(result) of initial mental health screening procedure dictate, additional
appropriate psychological testing addressing cognitive functioning,
mental illness, and severe characterological impairment shall be em-
ployed as circumstances allow.
(2) [11] Risk of recommitting a sex crime shall be determined
in the following manner: Where applicable, an actuarial instrument shall
be used which is appropriate to the sex offender. The results of the
instrument may be clinically adjusted at the discretion of the evaluator.
If an actuarial instrument is not appropriate, an empirically guided
approach shall be used. The board shall identify the appropriate in-
strument for use, and the list of board approved instruments shall be
available upon request to the Department of Corrections.
(3) [16] The threat to public safety shall be determined in the
following manner:
(a) The evaluator shall consider the following domains in assess-
ing the sex offender's immediate threat to public safety and in arriving
at a recommendation regarding an appropriate treatment setting:
1. The sex offender's amenability to treatment;
2. The degree of threat or harm or actual force employed in the
index offense and in prior [sexual] offenses;
3. The nature and duration of the [sexual] offending;
4. The sex offender's psychological adjustment [and]
5. The sex offender's social and occupational adjustment; and
6. The sex offender's statements or indications of harm di-
rected to another.
(b) The evaluator shall make a recommendation as to the approp-
riate setting in which treatment, if indicated, shall be provided for the
sex offender.
(4) [11] Amenability [16]; Amenity to treatment shall be deter-
mined in the following manner: The approved provider shall address
the following domains in making this assessment. The sex offender
shall:
(a) Not exhibit symptoms of a psychological disturbance that may
[shall] significantly inhibit treatment effectiveness.
(b) Exhibit a level of intellectual functioning sufficient to complete
the task assigned in the treatment program to which he shall be re-
ferred.
(c) Acknowledge involvement in the sex offense for which he is
charged.
(d) Consider his involvement in the sex offense to be a problem-
atic behavior that he does not want to repeat.
(e) Verbalize a willingness to enter and fully participate in treat-
ment.
(5) [41] In addressing the nature of required sex offender treat-
ment, the evaluator shall address management issues including rec-
ommendations for the focus of treatment, special treatment consider-
ations, further evaluation, and restrictions to minimize the risk of recidi-
ivism.

Section 3. Evaluation Report. (1) An approved provider shall
prepare a comprehensive sex offender presence evaluation report
to the court in the form of a bifurcated document.
(2) The first section of the report shall consist of information
prepared specifically for the court and contain the following headings:
(a) Identifying information including name, Social Security
number, date of birth and age, indictment number or county;
(b) Referral information, like reason for referral, informed
consent, procedures;
(c) Information sources; and
(d) Summary, conclusions, and recommendations.
(3) The second section shall include the following informa-
tion from which the summary and conclusions were reached:
(a) Criminal justice information like index offense, prior sex
offense, other legal history;
(b) Psychosocial history including family of origin; education,
employment, occupational, and financial history; sexual and relation-
ship history; and mental health and medical history;
(c) Behavioral observations and mental status;
(d) Psychological testing;
(e) Diagnosis impressions;
(f) Treatment considerations; and
(g) The statutory factors found in KRS 17.554(2).
(4) The report shall be entitled "Comprehensive Sex Offender
Presence Evaluation." An approved provider shall prepare a
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

comprehensive sex offender–presentence evaluation report to the court in the form of a bifurcated document. The first section shall consist of information prepared specifically for the court with the second section appended consisting of the supporting clinical data:

(a) The first section shall contain the following headings:
- Identifying information including name, Social Security number, date of birth and age, indictment number, or county;
- Referral information: the reason for referral; informed consent procedures;
- Information sources;
- Summary: considerations, and conclusions;

(b) The second section shall include the following domains of data from which the summary and conclusions shall be deduced:
- Criminal justice information; file index offense, prior sex offenses, other legal history;
- Psychosocial history including family of origin, education, military, occupational, and financial history, and sexual and relationship history and mental health and medical history;
- Behavioral observations and mental status;
- Psychological testing;
- Diagnoses and impressions;
- Treatment considerations;

(c) The report shall be titled “Comprehensive Sex-Offender Presentence Evaluation Report.” [Risk Assessment Procedures: (3) A certified provider shall conduct a risk assessment using the instruments listed in Section 1(7)(a)2 of this administrative regulation as appropriate for the sex offender. The appropriateness of the instruments for a sex offender shall be determined as follows:
- The MMST-R listed in Section 1(7)(a)2b of this administrative regulation shall be used for an adult male sex offender who has been convicted of at least one (1) sex offense;
- The MnSOST-R listed in Section 1(7)(a)2b of this administrative regulation shall be used for:
  1. An adult male sex offender whose sex offense was extramarital; or
  2. An adult male sex offender whose sex offense was extramarital; and involved:
     a. Penetration; or
     b. A high degree of physical force;
- The MnSOST-R listed in Section 1(7)(a)2b of this administrative regulation shall not be used for presentence risk assessments;
- The VRAG listed in Section 1(7)(a)2c of this administrative regulation shall be used for an adult male sex offender who has committed an offense involving violence;
- The risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of zero to fifteen (15) percent shall be a recommendation of low risk for the sex offender;
- The risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of six to forty-nine (49) percent shall be a recommendation of moderate risk for the sex offender;
- The risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of fifty (50) to one hundred percent shall be a recommendation of high risk for the sex offender;
- The use of the actuarial instruments listed in Section 1(7)(a)2 of this administrative regulation is not appropriate for a sex offender. The certified provider shall use the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition); Multi-Health Systems, Inc.; as a guideline to interview the sex offender and to gather information from available records of the sex offender or other available sources. The certified provider shall use clinical judgement to make a risk level recommendation based on the information gathered from the interview and other sources;
- If the sex offender is female, the certified provider may use the Risk Assessment Scale for Females which is incorporated by reference;
- A certified provider shall prepare a recommendation report to the court which indicates a recommended risk level for a sex offender for which a risk assessment has been completed;
- The recommendation report to the court shall include the following headings and subheadings:
  1. Identifying information:
     a. Name;
     b. Social Security number;
     c. Date of birth and age, indictment number, or county;
     d. Indictment number and:
     e. Ethnic background;
  2. Risk level recommendation:
  3. Certified provider;
  4. Date of evaluation and site of evaluation;
  5. Reason for referral;
  6. Information sources; and
  7. Evaluation results:
     a. Sex crime information;
     b. Criminal justice history;
     c. Mental health and medical history;
     d. Sexual history;
     e. Relationship history;
     f. Education, military, occupational, and financial history;
     g. Family of origin;
     h. Testing results;
  8. Conclusions and recommendations;
  9. If the recommendation report is for presentence evaluation purposes, the report shall also include a heading which states “Amenability to Treatment.”
- The format of the recommendation report to the court shall be as follows:
  1. The report shall be titled “Sex Offender Risk Assessment Presentense Report,” if the risk assessment was ordered for presentence evaluation purposes;
  2. The report shall be titled “Sex Offender Risk Assessment Pretrial Report,” if the risk assessment was not ordered for presentence evaluation purposes;
- An approved [1(#1)] A certified provider shall place his signature at the end of the recommendation report if he:
  1. Conducted the comprehensive sex offender presentence evaluation [risk assessment]; or
  2. Reviewed and approved the evaluation [risk assessment];
- If the approved [1(#2)] A certified provider previously provided treatment to the sex offender, he shall not perform a sex offender presentence evaluation for the offender [risk assessment if the certified provider previously provided treatment to the sex offender];
  1. A certified provider has performed a sex offender presentence evaluation for the offender, he shall not provide sex offender treatment for that individual.

Section 4, (9) Recordkeeping. (1) An approved [1(#3)] If a sex offender is determined to be a low or moderate risk, the certified provider shall preserve the collected assessment information for a period of fifteen (15) years;
  1. If a sex offender is determined to be a high risk, the certified provider shall preserve the collected assessment information for the life of the offender;
  1. A certified provider may transmit all comprehensive sex offender presentence evaluation [collected assessment] information to the board in lieu of maintaining the information for a period of fifteen (15) [the required number of] years.
- The original or a copy of all comprehensive sex offender presentence evaluation [collected assessment] information shall be provided to the board:
  1. Upon request; or
  2. At the death of the approved [certified] provider.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:
Section 2. Determination of Unmet Need. A local school district shall determine its unmet technology need as part of the technology planning process. Unmet technology need shall be audited by the department and subject to the approval of the Kentucky Board of Education as part of the state review and assistance calculation process, as provided by the master plan.

Section 3. Reducing Unmet Need. (1) In categories of unmet technology need, as provided in the KETS Master Plan for Education Technology, a district shall limit procurements to those which will reduce unmet technology need until the district's unmet technology need no longer exists.

(2) To assist a district in selecting technology which will reduce the unmet technology need, the Department of Education shall develop suggested procurement guidelines for equipment, software, and services.

Section 4. Alternative Technology. For technology components for which KETS standards have not been established, a local school district may propose [shall not be precluded from proposing] alternative technologies (waivers) in the local technology plan, particularly if the technology is proposed to achieve innovation. The department shall respond to the waiver within three (3) week time period. If denied, the local school district may appeal to the commissioner.


(2) This material [it] may be inspected, copied, or obtained, subject to applicable copyright law, from the Office of Education Technology, First Floor, Capital Plaza Tower, 500 Merce Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. through 4:30 p.m.
Section 1. Parent Participation in Meetings. (1) A parent of a child with a disability shall be afforded an opportunity to:
(a) Inspect and review all education records with respect to identification, evaluation, and educational placement of the child and the provision of FAPE to the child; and
(b) Participate in all ARC meetings concerning his child.
(2) An LEA shall provide to parents or written notice of [te] ARC meetings in accordance with this administrative regulation.
(3) LEA staff shall not be limited by 707 KAR Chapter 1, from having informal, scheduled, or unscheduled conversations on issues which may include:
(a) Teaching methodology if those issues are not addressed in the child's IEP;
(b) Lesson plans if those issues are not addressed in the child's IEP;
(c) Coordination of service provision if those issues are not addressed in the child's IEP; or
(d) Preparatory activities to develop a proposal or response to a parent proposal that will be discussed at a later ARC meeting.

Section 2. Independent Educational Evaluation. (1) A parent of a child with a disability shall have a right to obtain an independent educational evaluation of the child.
(2) Upon receiving the request, the LEA shall provide information to the parent about where an independent educational evaluation may be obtained and the LEA's applicable criteria for independent educational evaluations.
(3) The parent's request for an independent educational evaluation shall be subject to the following:
(a) The LEA shall be given the opportunity to conduct a complete evaluation on the child prior to the request;
(b) Upon receiving the request the LEA shall, without unnecessary delay:
1. Initiate a due process hearing to show that its evaluation is appropriate; or
2. Ensure that an independent educational evaluation is provided at public expense unless the LEA demonstrates in a due process hearing that the evaluation obtained by the parent did not meet LEA criteria;
(c) The LEA may ask for the parent's reasons why he objects to the LEA's evaluation; however, the parent shall not be required to respond and the LEA shall not delay its action under paragraph (b) of this subsection while waiting for a response from a parent; and
(d) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria that the LEA uses when it initiates an evaluation. Aside from these criteria, the LEA shall not impose any other conditions or timelines relating to obtaining an independent educational evaluation at public expense.
(4) If the LEA initiates a due process hearing after receiving a request for an independent educational evaluation, and the final decision is that the LEA's evaluation is appropriate, the parent still shall have the right to an independent educational evaluation, but not at public expense.
(5) If the parent obtains an independent educational evaluation at private expense and it meets the agency criteria, results of the evaluation shall be considered by the LEA in any decision made with respect to the provision of a free appropriate public education (FAPE) to the child.
(6) If a due process hearing officer, as part of a hearing, requests an independent educational evaluation, the cost of the evaluation shall be at public expense.

Section 3. Notice of Procedural Safeguards. (1) An LEA shall provide written notice to the parents of a child with a disability a reasonable time before the LEA:
(a) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
(b) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.
(2) This notice shall include:
(a) A description of the action proposed or refused by the LEA;
(b) An explanation of why the LEA proposes or refuses to take the action;
(c) A description of any other options that the LEA considered and the reasons why those options were rejected;
(d) A description of each evaluation procedure, test, record, or report the LEA used as a basis for the proposed or refused action;
(e) A description of any other factors that are relevant to the LEA's proposal or refusal;
(f) A statement that the parents of a child with a disability have protection under the procedural safeguards in 707 KAR Chapter 1 and 34 CFR section 300.540, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained; and
(g) Sources for the parents to contact to obtain assistance in understanding the provisions of this section.
(3) The notice shall be written in language understandable to the general public and provided in the native language or other mode of communication of the parent unless it is clearly not feasible to do so. If the native language of the parent is not a written language, the LEA shall take steps to ensure that the notice is translated orally or by other means so that the parent understands the content of the notice and that there is written evidence of this translation.
(4) A copy of the procedural safeguards (e.g., parent's rights) shall be given [available] to the parents of a child with a disability:
(a) Upon initial referral for evaluation;
(b) Upon invitation of each ARC meeting;
(c) Upon reevaluation of the child; and
(d) Upon receipt of a request for a due process hearing.
(5) After receiving a copy and explanation of the procedural safeguards, a parent may make an informed decision to waive future copies and explanation of the procedural safeguards. This written waiver shall be recorded and kept by the LEA.
(6) The procedural safeguards notice shall include a full explanation of all the procedural safeguards available under 707 KAR Chapter 1 and 34 CFR section 300.540.

Section 4. Parental Consent. (1) An LEA shall obtain informed parental consent before conducting an initial evaluation or reevaluation and before the initial provision of specially designed instruction and related services.
(2) If a parent of a child with a disability refuses consent for an initial evaluation or a reevaluation, the LEA may continue to pursue those evaluations by requesting a due process hearing or using the mediation procedures.
(3) Parental consent shall not be required for reevaluation if the LEA can demonstrate that it has taken reasonable measures to obtain the consent, and the child's parent has failed to respond. To show the reasonable measures taken, the LEA shall keep documentation which may include:
(a) The records of the telephone calls made or attempted and the results of these calls;
(b) Copies of correspondence sent to the parents and any responses received; and
(c) Records of the visits made to the parent's home or place of employment and the results of those visits.

Section 5. Right to Mediation and Due Process Hearings. (1) [44] An LEA and parent of a child with a disability shall have the right to request mediation from the Kentucky Department of Education to resolve any disputes that may arise under 707 KAR Chapter 1.
(2) [65] A parent or an LEA may initiate a due process hearing on any of the matters described in the written notice relating to identification, evaluation or educational placement of a child with a disability or the provision of FAPE to the child or the refusal to initiate or change the identification, evaluation, or educational placement of the child.
(3) [68] When a hearing is initiated, the LEA shall inform the parent of the availability of mediation to resolve the dispute.
(4) [45] The LEA shall inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or if a parent or LEA initiates a hearing.
Section 8. Mediation Rights. (1) The mediation process, if chosen, shall:
(a) Be voluntary;
(b) Not be used to deny or delay a parent's right to a due process hearing under Sections 5 and 7 of this administrative regulation or 34 CFR 300.507, or to deny any other rights afforded under this administrative regulation or IDEA Subpart E; and
(c) Be conducted by a qualified and impartial mediator trained in effective mediation techniques.
(2) The Kentucky Department of Education shall maintain a list of qualified mediators who shall:
   (a) Not be an employee of:
      1. Any LEA or state agency described in 34 CFR section 300.194; or
      2. Any part of the Kentucky Department of Education that is providing direct services to a child who is the subject of the mediation process;
   (b) Be chosen at random for the mediation process; and
   (c) Not have a personal or professional conflict of interest.
(3) The Kentucky Department of Education shall bear the cost of the mediation process.
(4) The sessions in the mediation process shall be:
   (a) Scheduled in a timely manner; and
   (b) Held at a location that is convenient to both parties to the dispute.
Section 7. [5:] [5:] Hearing Rights. (1) The parent of a child with a disability or the attorney representing the child shall provide notice to the Kentucky Department of Education, to request a hearing. The notice shall contain:
   (a) The name of the child;
   (b) The address of the residence of the child;
   (c) The name of the school the child is attending;
   (d) A description of the nature of the problem; and
   (e) Facts relating to the problem and a proposed resolution to the extent known and available to the parents at the time.
(2) The Kentucky Department of Education shall provide a model form entitled "Request for a Due Process Hearing" containing these requirements to assist parents in filing a [who] request a due process hearing.
(3) The Kentucky Department of Education shall not deny or delay a parent's right to a due process hearing for failure to provide the notice in 707 KAR 1:340, Section 7(1) and (2) [5H].
(4) The procedures included in KRS Chapter 13B and IDEA Subpart E shall apply to a due process hearing.
Section 8. [2:] [6:] Appeal of Decision. (1) A party to a due process hearing that is aggrieved by the hearing decision may appeal the decision to members of the Exceptional Children Appeals Board as assigned by the Kentucky Department of Education. The appeal shall be perfected by sending, by certified mail, to the Kentucky Department of Education a request for appeal, within thirty (30) calendar days of date of the hearing officer's decision.
(2) A decision made by the Exceptional Children Appeals Board shall be final unless a party appeals the decision to state circuit court or federal district court.
(3) Except as provided in 707 KAR 1:340, Sections 10 and 12 [9 and 11] [8 and 10], during the pendency of any administrative or judicial proceeding, the child involved in the hearing or appeal shall remain in his current educational placement, unless the LEA and the parent agree to another placement.
(4) If the hearing involves an application for initial admission to public school, and if there is consent of the parents, the child shall be placed in the public school until the proceedings are final.
Section 9. [8:] [7:] Representation of Children. (1) An LEA shall ensure the rights of a child are protected by determining an educational representative for the child. An LEA shall appoint a surrogate parent to make educational decisions for the child if:
   (a) No parents as defined in 707 KAR 1:280 can be identified;
   (b) An LEA, after reasonable efforts, cannot discover the whereabouts of the parents; or
a parent requests a hearing to challenge the placement of his child in an interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting until the decision is final or until the expiration of the time period for the placement, whichever occurs first, unless the parent and the LEA agree otherwise.

(2) If a child is placed in an interim alternative educational setting and school personnel propose to change the child's placement after expiration of the time period, during the pendency of any proceeding to challenge the proposed change in placement, the child shall remain in the current placement (i.e., the child's placement prior to the interim alternative educational setting) unless the school personnel maintain that it is dangerous for the child to be in the current placement, in which case the LEA may request an expedited due process hearing.

(3) A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a rule or code of conduct of the LEA, may assert any of the protections provided for in this administrative regulation if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

Section 13, [12] [14] Basis of Knowledge. (1) An LEA shall be deemed to have knowledge that a child is [may be] a child with a disability if:

(a) The parent of the child has expressed concern in writing (or orally if the parent cannot express it in writing) to personnel of the appropriate LEA that the child is in need of special education and related services;

(b) The behavior or performance of the child demonstrates the need for these services, in accordance with 707 KAR 1:280;

(c) The parent of the child has requested an evaluation pursuant to the requirements in 707 KAR 1:200; or

(d) The teacher of the child, or other personnel of the LEA, has expressed concern about the behavior or performance of the child to the director of special education or to other personnel in accordance with the LEA's child find or special education referral system.

(2) An LEA shall not be deemed to have knowledge that a child may be a child with a disability if, as a result of receiving information, the LEA conducted an evaluation and determined the child was not a child with a disability or determined an evaluation was not necessary and provided notice to the parents of these determinations.

(3) If an LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities.

(4) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the child shall remain in the educational placement determined by school authorities, which may include suspension or expulsion without educational services.

Section 14, [15] [17] Reporting to Law Enforcement Agencies. (1) Notwithstanding any provisions of 707 KAR Chapter 1, an agency may report a crime committed by a child with a disability to appropriate authorities.

(2) If an LEA reports a crime committed by a child with a disability, it shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to the extent the transmission is permitted by the Family Educational Rights and Privacy Act, 20 USC Section 1232g.

Section 15, [14] [19] State Complaint Procedures. (1) The following procedures shall apply to the Kentucky Department of Education as to written complaints submitted pursuant to 34 CFR 300.650 through 300.662:

(a) A time limit of sixty (60) days after a complaint is filed to carry out an independent investigation, if necessary;

(b) An opportunity by the complainant and the LEA to submit additional information about any allegation in the complaint;

(c) A review of all relevant information; and

(d) A written decision addressing each allegation in the complaint containing the findings of fact and conclusions of the reasons for the
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

final decision.

(2) Any organization or individual including someone from outside the state may file a signed written complaint under this administrative regulation.

(3) The complaint shall include:

(a) A statement that the LEA or other public agency providing educational services to identified students has violated a requirement of 42 U.S. Chapter 1 or IDEA regulations;
(b) The facts on which the statement is based; and
(c) Information indicating that the violation did not occur more than one (1) year prior to the date of the filing of the complaint, unless a longer period is reasonable because the violation is continuing or the complainant is requesting compensatory services for a violation that occurred not more than three (3) years prior to the date of the complaint.

(4) (2) The complainant, parent or the LEA shall have a right to appeal the written decision from a complaint to the Commissioner of the Kentucky Department of Education. This appeal shall be filed within fifteen (15) business days of the receipt of the decision.

(5) The Kentucky Department of Education shall allow an extension of time limit under subsection (1)(a) of this section only if exceptional circumstances exist.

(6) The Kentucky Department of Education shall ensure the final decision from a complaint shall be effectively implemented.

To achieve compliance, the Department of Education may apply:
(a) Technical assistance activities;
(b) Negotiations; or
(c) Corrective actions.

Section 16. Incorporation by Reference. (1) The "Request for a Due Process Hearing" dated July 14, 2000, is hereby incorporated by reference.

(2) This document may be inspected, obtained, and copied at the Division of Exceptional Children Services, Department of Education, Capital Plaza Tower, 500 Mero Street, Eighth Floor, Frankfort, Kentucky, Monday through Friday, 8 a.m. through 4:30 p.m.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
APPROVED BY AGENCY: June 8, 2000
FILED WITH LRC: June 9, 2000 at 10 a.m.

WORKFORCE DEVELOPMENT CABINET
(As Amended at ARRIS, August 1, 2000)

780 KAR 3:035. Employee evaluations.

RELATES TO: KRS 151B.035(3)(k), 151B.075
STATUTORY AUTHORITY: KRS 151B.035(3)(k), 151B.075(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.035(3)(k) requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations [consistent with the provisions of KRS 154B.035. KRS 151B.075 specifies that the State Board promulgate comprehensive administrative regulations] for the certified and equivalent staff governing employee evaluations. KRS 151B.075(1) requires [specifies that] the State Board to adopt written evaluation procedures for all certified and equivalent employees. This administrative regulation establishes the requirements for employee evaluations for certified and equivalent employees.


(2) Evaluations of instructors shall be conducted in accordance with the "Performance Evaluation Criteria and Procedures for Instructors", revised 11/93, published by the Department for Technical Education and the Department for Adult Education and Literacy.

(3) Evaluations of certified, equivalent and central office staff shall be conducted in accordance with the "Performance Evaluation Criteria and Procedures for Other Certified, Equivalent and Central Office Staff", revised 11/93, published by the Department for Technical Education and the Department for Adult Education and Literacy.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Performance Evaluation Criteria and Procedures for School Administrators", revised 11/93;
(b) "Performance Evaluation Criteria and Procedures for Instructors", revised 11/93; and
(c) "Performance Evaluation Criteria and Procedures for Other Certified, Equivalent and Central Office Staff", revised 11/93.

(2) This material may be inspected, copied, or obtained at the Office of Personnel Services, Workforce Development Cabinet, Capital Plaza Tower, Second Floor, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ALLEN D. ROSE, Secretary
SHERRY R. DEATRICK, General Counsel
APPROVED BY AGENCY: June 6, 2000
FILED WITH LRC: June 9, 2000 at 4 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Financial Institutions
(As Amended at ARRIS, August 1, 2000)

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

RELATES TO: KRS 287.102, 287.180, 287.185
STATUTORY AUTHORITY: KRS 287.180(2), 287.185
NECESSITY, FUNCTION, AND CONFORMITY: KRS 287.180(2) and 287.185 authorize the Department of Financial Institutions [is authorized pursuant to Senate Bill 169, which, when effective, will amend KRS 287.180 and 287.185] to designate those banks that do not have to apply for approval of the commissioner for permission to establish a branch or to relocate its principal office or branch. KRS 287.102 authorizes a qualified state bank to engage in any banking activity in which the bank could engage in other states if the bank meets specified conditions. Other states permit statewide branching as part of their authorized banking activities. This administrative regulation establishes the criteria for a bank [will set forth the criteria that such banks have] to meet in order to be designated as not having to obtain commissioner approval to establish a branch, or relocate a principal office or branch [or establish a loan production office].

Section 1. Permitted Activities Without Commissioner Approval. Any bank that meets the criteria set forth in Section 2 of this administrative regulation and provides the notices required in Section 3 of this administrative regulation may do any of the following in any county of the state, whether or not already located in the [such] county, without commissioner approval:

(1) Establish a branch; or
(2) Relocate its main office or branch office; or
(3) Establish a loan production office.

Section 2. Criteria to Act Without Commissioner Approval. The following criteria shall be satisfied before a bank may undertake the activities described in Section 1 of this administrative regulation without commissioner approval:

(1) The bank shall have received its bank charter from the department at least three (3) years prior to undertaking the [such] activity;

(2) The bank shall be well-capitalized.
(a) As defined by the Federal Deposit Insurance Corporation, if the bank is a nonmember bank; or
(b) As defined by the Federal Reserve Board of Governors, if the bank is a member bank;

(3) The bank shall have received a CAMEL composite rating of
one (1) or two (2) on its most recent state or federal regulatory exami-
nation;
(4) The bank shall have received a management rating of one (1)
or two (2) on its most recent state or federal regulatory examination;
(5) The bank shall not be a party to any formal or informal en-
forcement action initiated by a state or federal regulatory agency; and
(6) The bank's activity shall not cause the bank to exceed the
fixed asset limitation established [contained] in KRS 287.100.

Section 3. Required Notices. A [The following notices are required of
any] bank that desires to engage in the activities described in Sec-
tion 1 of this administrative regulation without commissioner approval
shall submit the following notices:
(1) A notice shall be sent to the department within thirty (30) days
after the bank's board of directors approves the activity, which notice
shall provide as follows:
(a) The address of the new location where the bank intends to
establish or relocate its new branch or office;
(b) The expected date the new branch or office shall open; and
(c) A statement by the bank that it satisfies the criteria set forth in
Section 2 of this administrative regulation signed by an authorized
officer or agent of the bank.
(2) A notice shall be sent to any state bank with its main office
located in the county where the new branch or office will be located
within thirty (30) days after the bank's board of directors approve the
activity, which notice shall provide as follows:
(a) The address of the new location where the bank intends to
establish or relocate its new branch or office; and
(b) The expected date the new branch or office shall open.
(3) A notice shall be sent to the department within thirty (30)
days after the bank has opened its branch or office at the new location ad-
vising the department of the opening.

Section 4. Effect of Subsequent Noncompliance with Criteria. If, sub-
sequent to the establishment or relocation of an office or branch
without commissioner approval, the bank no longer meets the re-
quirements established [contained] in Section 2 of this administrative
regulation, [then] the bank shall thereafter be required to obtain com-
misssioner approval prior to establishing or relocating any additional
offices or branches until [each time as] the bank again meets the cri-
teria. The establishment or relocation already completed by the bank
shall not be rendered ineffective.

RONALD B. MCCLOUD, Secretary
ELLA B. ROBINSON, Commissioner
J. RICK JONES, General Counsel
APPROVED BY AGENCY: June 15, 2000
FILED WITH LRC: June 15, 2000 at 10 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Financial Institutions
(As Amended at ARRS, August 1, 2000)

808 KAR 10:030. Conduct of broker-dealers, agents, and em-
ployees; investment advisers and representatives.

RELATES TO: KRS 292.330 [Chapter 292]
STATUTORY AUTHORITY: KRS 292.330(12)(l), 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3)
authorizes the commissioner to promulgate administrative regulations
necessary to carry out the provisions of KRS Chapter 292. KRS
292.330(12)(l) authorizes the commissioner to promulgate adminis-
trative regulations regulating [prescribe rules for] the conduct of
business by broker-dealers and investment advisers [which he finds
appropriate and in the public interest]. This administrative regulation
establishes requirements relating to the conduct of a broker-dealer,
agent, employee, investment adviser, or representative.

agent, investment adviser, or investment adviser representative who
recommends to a customer the purchase, sale or exchange of a secu-
ritv shall have reasonable grounds to believe that the recommendation
is not unsuitable for the customer on the basis of:
(1) Information furnished by the customer after reasonable inquiry
concerning the customer's investment objectives, financial situation
and needs; and
(2) Other information known by the broker-dealer, agent, invest-
ment adviser or investment adviser representative.

Section 2. Supervision of Broker-dealer Agents. (1) Each agent
shall be subject to the supervision of a supervisor designated by the
broker-dealer employing the agent. The responsibilities of a desig-
nated supervisor with respect to each agent under his supervision shall
include [but are not limited to] the prompt review and written
approval of:
(a) The opening of each new customer account by the agent;
(b) Each securities transaction by the agent;
(c) All incoming or outgoing correspondence including[,] but not
limited to[,] postal mail, electronic mail, and faxes;
(d) All advertising, sales literature, and seminars; and
(e) The handling of any customer complaint.
(2) Either a registered principal of the broker-dealer or an agent's
designated supervisor shall:
(a) Review outside business activity by the agent;
(b) Review any brokerage account owned by the agent;
(c) Periodically review customer accounts of the agent; and
(d) Regularly inspect the records of the agent at the agent's place
of business. [A registered agent of a registered broker-dealer shall be
subject to the supervision of a supervisor designated by the broker-
dealer. The supervisor may be a partner, officer, officer manager or
other qualified person, or in the case of a sole proprietor, the broker-
dealer.]

Section 3. Written Supervisory Procedures. (1) Broker-dealers,
(a) Each [As part of his responsibility under this administrative
regulation, a registered] broker-dealer shall establish, maintain and
enforce written procedures that:
1. Are reasonably designed to detect and prevent violations of
a. [ses] KRS Chapter 292, 808 KAR Chapter 10, [and the adminis-
trative regulations] and orders issued under that chapter;
b. [ses] The rules promulgated by the Securities and Exchange
Commission pursuant to 15 USC 78w; and
c. [ses] If the broker-dealer is a member of a self-regulatory or-
ganization as defined in 15 USC 78(o)(28), the rules of the self-
regulatory organization pursuant to 15 USC 78s(b); and
2. [The written procedures shall include] the procedures adopted
by the broker-dealer to comply with the requirements of Section 2 of
this administrative regulation.
(b) The broker-dealer shall keep a copy of the procedures re-
quired by paragraph (a) of this subsection in each office where an
agent transacts business in securities.
(2) Investment advisers
(a) Except as provided in paragraph (b) of this subsection, each
investment adviser shall:
1. Establish, maintain, and enforce written procedures that are
reasonably designed to detect and prevent violations of KRS Chapter
292, 808 KAR Chapter 10, [and the administrative regulations] and
orders issued under that chapter; and
2. [The investment adviser shall keep a copy of the procedures in
each office where a representative provides investment advice to a
client.]
(b) The requirements established in [requirement of] paragraph
(a) of this subsection shall not apply to an investment adviser that:
1. Has its principal place of business in a state other than Ken-
tucky if [so long as] the investment adviser is registered in that state
and is in compliance with [ses] that state's written supervisory proce-
dures requirements; or
2. Has two (2) or fewer persons registered as an investment ad-
viser representative of the investment adviser.

Section 4. Written Disclosure Statement. (1) An investment ad-
viser shall furnish each advisory client and prospective advisory client
with a written disclosure statement. This statement may be either a
copy of Part II of its Form ADV or a written document containing at
least the information required by Part II of the Form ADV.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(2)(a) Except as provided in paragraph (b) of this subsection, an investment adviser [except as provided in paragraph (b) of this subsection] shall deliver the statement required by this section to an advisory client or prospective advisory client:

1. Not less than forty-eight (48) hours prior to entering into any written or oral investment advisory contract with the client or prospective client; or

2. At the time of entering into a [any such] contract, if the advisory client has a right to terminate the contract without penalty within five (5) business days after entering into the contract.

(b) Delivery of the statement required by paragraph (a) of this subsection shall not be required [need not be made] in connection with entering into an investment company contract or a contract for impersonal advisory services.

(3)(a) Except as provided in paragraph (b) of this subsection, an investment adviser shall, annually and without charge, deliver or offer in writing to promptly deliver upon written request, the statement required by this section to its advisory clients.

(b) The delivery or offer required by paragraph (a) of this subsection shall not be required for [need not be made to] advisory clients receiving advisory services solely pursuant to an investment company contract or a contract for impersonal advisory services.

(c) If an investment adviser renders substantially different types of investment advisory services to different advisory clients, [Then any] information required by Part II of the Form ADV may be omitted from the statement furnished to an advisory client or prospective advisory client if the information is not applicable to services rendered to that client.

(5) This section shall not relieve an investment adviser from an obligation, pursuant to a provision of KRS Chapter 292, 808 KAR Chapter 10, [The Kentucky Securities Act or administrative regulations under the Act] or other federal or state law, to disclose information to its advisory clients or prospective advisory clients not specifically required by this section.

Section 5. Multiple Registration. (1) A person shall not [No person may] be concurrently registered as an agent of more than one (1) broker-dealer or issuer unless the person obtains prior written consent from the commissioner.

(2) A person shall not [No person may] be concurrently registered as an investment adviser representative of more than one (1) investment adviser unless the person obtains prior written consent from the commissioner.

(3) A request for multiple registration shall be in writing and shall contain a statement by each employer that the employer:

(a) Consents to the multiple employment of the agent or representative; and

(b) Agrees to assume joint and several liability with all other employers for an act or omission of the agent or representative during the employment period that violates KRS Chapter 292, 808 KAR Chapter 10, or orders issued under that chapter;

(4) The commissioner shall consent to multiple registration pursuant to a request under subsection (3) of this section if the commissioner finds that:

(a) The multiple registration does not impair a determination of the supervisory responsibilities of each employer with respect to the employee; and

(b) The disciplinary histories of the person and each employer are not unfavorable. [The commissioner may consent to multiple registration under subsections (1) and (2) of this section if each employer files a written statement with the commissioner indicating the effective date of the multiple employment and stating that the employer:

(a) Consents to the multiple employment of the agent or representative; and

(b) Agrees to assume joint and several liability with all other employers for an act or omission of the agent or representative during the employment period that violates the Securities Act of Kentucky or administrative regulations or orders pursuant to the Act.]

(5) [If the commissioner determines that the multiple registration does not impair the supervisory responsibilities of each employer with respect to the employee, [a copy of which shall be kept in each business office, which shall set forth the procedures adopted by the broker-dealer to comply with the following duties:

1. The review and written approval by the designated supervisor of the opening of each new customer account;

2. The frequent examination of all customer accounts to detect and prevent irregularities or abuses;

3. The prompt review and written approval of the designated supervisor of all securities transactions by registered agents and all correspondence pertaining to the solicitation or execution of all securities transactions by the agents; and

4. The prompt review and written approval of the handling of all customer complaints.]]


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfurt, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained from the Securities and Exchange Commission, Branch of BD and IA Registration, Washington, D.C. 20549.

RONALD MCCLOUD, Secretary
ELLA D. ROBBINS, Commissioner
J. RICK JONES, General Counsel
APPROVED BY AGENCY: April 10, 2000
FILED WITH LRC: April 13, 2000 at 2 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Financial Institutions
(As Amended at AARRS, August 1, 2000)

808 KAR 10:40. Examples of dishonest or unethical practice [defined].

RELATES TO: KRS 292.330(13)(a)7
STATUTORY AUTHORITY: KRS 292.330(12)(e), 292.500(3)
NECESSITY, FUNCTION AND CONFORMITY: KRS 292.500(3)

The commissioner may determine that another activity constitutes a dishonest or unethical practice if the activity is sufficiently similar to one (1) or more enumerated activities. This administrative regulation establishes what activities are considered as dishonest or unethical practice.

Section 1. Definition. "Investment adviser solicitor" means a person or entity that, directly or indirectly, solicits a prospective client for, or refers a prospective client to an investment adviser.

Section 2. Broker-dealer. Examples of dishonest or unethical practices by a broker-dealer shall include, but are not limited to, the following: [Dishonest or unethical practice shall include:]

(1) Unreasonable delay or failure to:

(a) Execute an order;

(b) Liquidate a customer's account; or

(c) Make delivery of:

1. A security purchased; or

2. A remittance (or credit) of a security sold;

(2) Selling a security:

(a) At an unfair price in relation to market value; or

(b) With an unreasonable or excessive markup or commission;
Section 4. Investment Adviser and Investment Adviser Representative. Examples of dishonest and unethical practices by an investment adviser or investment adviser representative shall include, but are not limited to, the following:

(1) An activity set forth in Section 2 of this administrative regulation;

(2) Borrowing money or securities from a customer unless the customer is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of investing funds or securities;

(3) Loaning money to a customer unless the customer is an affiliate of the investment adviser or the investment adviser is a financial institution engaged in the business of investing funds;

(4) Misrepresenting or omitting to state to a customer, or prospective customer, a material fact with respect to:

(a) The qualifications of the investment adviser or a representative of the investment adviser;

(b) The nature of the advisory services offered or fees charged for the services;

(5) Entering into, extending, or renewing an investment advisory contract without the contract is in writing and discloses the following:

(a) The nature of the advisory services to be provided;

(b) The terms period that the contract remains in effect;

(c) The advisory fee and the formula for computing the fee;

(d) The amount of prepaid fee to be returned in the event of contract termination or non-performance;

(e) Whether the contract grants discretionary power to the advisor and, if so, the terms of the discretionary power;

(f) Whether the contract grants custody of customer funds to the advisor and, if so, the terms of the custody and

(g) That the advisor shall (may) not assign the contract without the prior written consent of the customer;

(6) Charging a customer an unreasonable fee in light of the fee charged by other investment advisers providing similar services in Kentucky;

(7) Failing to disclose in writing to a customer before entering into an investment advisory contract with the customer:

(a) A material conflict of interest relating to the investment adviser or a representative of the adviser which a reasonable person would consider to impair the rendering of unbiased investment advice; or

(b) A material fact with respect to the financial and disciplinary information required to be disclosed by 17 CFR 275.206(4)-4 (SEC Rule 206(4)-4);

(8) Guaranteeing or promising that advice provided by the investment adviser will achieve a specific result (gain or no loss);

(9) Disclosing information about the investments of a customer to a third party unless required by law to do so or unless authorized by the customer;

(10) Publishing or distributing an advertisement that would be a fraudulent, deceptive, or manipulative act, practice, or course of business under 17 CFR 275.206(4)-1 (SEC Rule 206(4)-1); or

(11) Paying a cash fee, directly or indirectly, to an investment adviser solicitor unless the investment adviser makes the payment in accordance with the requirements of 17 CFR 275.206(4)-9 (SEC Rule 206(4)-3).

Section 5. The commissioner may determine that an activity not included in the examples identified in Sections 1 through 4 of this administrative regulation constitutes a dishonest or unethical practice if the activity is similar to an enumerated activity.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

Friday, 8 a.m. to 4:30 p.m. [-EST-]

COLLEEN KEEFE, Director and Attorney
APPROVED BY AGENCY: June 6, 2000
FILED WITH LRC: June 6, 2000 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(As Amended at ARRS, August 1, 2000)


RELATES TO: KRS 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.950
STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050
NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) requires the board to adopt a mandatory uniform state building code to establish standards for the construction of all buildings in the state. This administrative regulation incorporates by reference the Kentucky Building Code, Seventh Edition 1997.

Section 1. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "The Kentucky Building Code", (Seventh Edition - 1997), as amended February 21, 2000 and May 25, 2000 (October 21, 1999), by the Kentucky Board of Housing, Buildings and Construction; and [is incorporated by reference].

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Housing, Buildings, and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JUDITH G. WALDEN, Office of General Counsel
DENNIS J. LANGFORD, Commissioner
RONALD MCCLOUD, Secretary
APPROVED BY AGENCY: June 6, 2000
FILED WITH LRC: June 6, 2000 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, August 1, 2000)

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

RELATES TO: KRS 318.010, 318.015, 318.130, 318.150, 310.200
STATUTORY AUTHORITY: KRS 318.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after approval by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky for the construction of house sewers and storm water piping. This administrative regulation identifies the materials and methods of installation that may be used in the construction of house sewers or storm water piping.

Section 1. Independent System. The drainage and plumbing system of new buildings and of new work installed in an existing building shall be separate and independent of other buildings except as outlined in this administrative regulation. A building shall have an independent connection with either a public or private sewer or sewer system.

Section 2. Exception. If a building stands in the rear of other buildings or on an interior lot and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard or driveway, the sewer from the front building may be extended to the rear building and it shall be considered as one (1) sewer. This exception shall not apply to corner lots if a sewer connection is available from the street or alley or to a new or existing building which abuts a street or alley.

Section 3. Connection with Private Sewage Disposal System. If a sewer is not available, the house drain from a building shall connect with an approved private sewage disposal system.

Section 4. Excavations. An excavation made for the installation of a house sewer shall be open trench work, and the trenches shall be kept open until the piping has been inspected, tested and approved.

Section 5. Depth of Sewer at the Property Line. (1) The sewer at the property line shall be at a sufficient depth to properly serve a plumbing connection installed in the basement of a building.
(2)(a) A house sewer shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot.
(b) A sewer shall have at least an eighteen (18) inch cover.
(c) Sewer piping installed under property subject to vehicular traffic (e.g., a driveway, parking lot, or similar location) shall have at least a twenty-four (24) inch cover unless constructed of cast iron piping. If less than a twenty-four (24) inch cover is available, sewer piping shall be encased in a minimum of six (6) inches of concrete on each side and the top.
(d) A sewer shall be backfilled by hand and tamped six (6) inches above the piping, or filled with six (6) inches grillage above the piping.
(e) Each joint in cast iron and vitrified clay pipe shall be made in conformance with the State Plumbing Code.

Section 6. New House Sewer Connections. A house sewer installed where a private sewerage system has been discarded may connect to the house drain, if the existing plumbing system meets the State Plumbing Code.

Section 7. Materials for House Sewers. A house sewer or combined sewer, beginning two (2) feet outside the foundation wall of a building, shall be made of either extra heavy cast iron pipe, service weight cast iron, aluminum, vitrified clay, concrete, coextruded composite PVC pipe produced and labeled ASTM F-1488, PVC or ABS plastic pipe schedules 40 and 80 and cellular core PVC produced and labeled as ASTM F-901, cellular core ABS produced and labeled as ASTM 628, truss pipe and extra heavy SDR 35 pipe and Type PS-46, Poly(Vinyl Chloride) (PVC) in sizes four (4) inches through fifteen (15) inches produced and labeled as ASTM F 789-82 or PVC ribbed pipe produced and labeled as ASTM 795, polyethylene pipe produced and labeled as ASTM F-714.

Section 8. Material for Storm Sewers Inside Buildings. (1) Material for a storm sewer inside of a building to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be cast iron pipe, aluminum or Schedule 40 ABS or PVC DWV pipe or PVC pipe produced and labeled as ASTM F-1488.
(2) A storm sewer in a size of ten (10) inches and larger shall be either cast iron, aluminum, Schedule 40 ABS or PVC DWV pipe, SDR 35, vitrified clay or concrete conforming to appropriate commercial specifications with approved joints, or polyethylene pipe produced and labeled as ASTM F-714.

Section 9. Change of Direction. A change in direction of a sewer shall be made with long curves, forty-five (45) degree wyes, half wyes, quarter, sixth, eighth or sixteenth bends or sanitary tees installed on their back or on their sides at an angle of not more than forty-five (45) degrees [one-eighth (1/8) bends or Ys].

Section 10. Size of House Sewers and Horizontal Branches. The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain. A house sewer receiving a branch shall be sized in the same manner as a house drain. The house drains shall be installed in accordance with 815 KAR 20:080. [(see 815-KAR 20:080).]
Section 11. Size of Storm Systems. The required size of a storm sewer shall be determined on the basis of the total drained area in horizontal projection in accordance with the following table. A storm sewer shall not be laid parallel to or within two (2) feet of a bearing wall. The storm sewer shall be laid at a sufficient depth to protect it from freezing.

<table>
<thead>
<tr>
<th>Diameter of pipe - inches</th>
<th>Maximum drained roof area in square feet*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Slope 1/8 in. fall to 1 ft.</td>
</tr>
<tr>
<td>3</td>
<td>1,160</td>
</tr>
<tr>
<td>4</td>
<td>1,880</td>
</tr>
<tr>
<td>5</td>
<td>3,340</td>
</tr>
<tr>
<td>6</td>
<td>5,350</td>
</tr>
<tr>
<td>8</td>
<td>11,500</td>
</tr>
<tr>
<td>10</td>
<td>20,700</td>
</tr>
</tbody>
</table>

*The calculations in this table are based on a rate of rainfall of four (4) inches per hour.

Section 12. Combined Storm and Sanitary Sewer System. If a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area and the total fixture units, adding the product to the drained area and applying the sum of the preceding table for storm water sewers. A combined house drain or house sewer shall not be less than four (4) inches in diameter, and a combined house drain or house sewer shall not be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

### CONVERSION FACTORS FOR COMBINED STORM AND SANITARY SYSTEM

#### Number of fixture units on sanitary system

<table>
<thead>
<tr>
<th>Drained roof area in square feet</th>
<th>Up to 6</th>
<th>7 to 18</th>
<th>19 to 36</th>
<th>37 to 60</th>
<th>61 to 96</th>
<th>97 to 144</th>
<th>145 to 216</th>
<th>Over 217</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 120</td>
<td>180</td>
<td>106</td>
<td>60</td>
<td>45</td>
<td>30</td>
<td>22</td>
<td>18</td>
<td>15</td>
</tr>
<tr>
<td>121 to 240</td>
<td>160</td>
<td>98</td>
<td>57</td>
<td>43</td>
<td>29</td>
<td>21</td>
<td>17.6</td>
<td>14.7</td>
</tr>
<tr>
<td>241 to 480</td>
<td>120</td>
<td>75</td>
<td>50</td>
<td>39</td>
<td>27</td>
<td>20</td>
<td>16.9</td>
<td>14.3</td>
</tr>
<tr>
<td>481 to 720</td>
<td>75</td>
<td>62</td>
<td>42</td>
<td>35</td>
<td>24</td>
<td>18</td>
<td>15.4</td>
<td>13.2</td>
</tr>
<tr>
<td>721 to 1,080</td>
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<td>2,431 to 3,645</td>
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#### Number of fixture units on sanitary system

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<th>Drained roof area in square feet</th>
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<th>487 to 732</th>
<th>733 to 1,098</th>
<th>1,099 to 1,644</th>
<th>1,645 to 2,466</th>
<th>2,467 to 3,702</th>
<th>3,703 to 5,556</th>
<th>Over 5,556</th>
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<td>721 to 1,080</td>
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<td>40,946 to 61,520</td>
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<td>Over 61,520</td>
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(2) For a building constructed after August 1, 1996, the effective date of this administrative regulation, each plumbing fixture opening to a combination sanitary and storm sewer system shall either:

(a) Be installed above the elevation of the cover of the nearest manhole serving the main; or

(b) Be installed through a sewer ejection to the combined sewer system at an elevation high enough to prevent flooding of the building.

Section 13. House Sewer in Undisturbed or Filled Ground. (1) A house sewer laid in undisturbed ground shall be laid on at least four (4) inches of pea gravel, sand or other approved gravel.

(2) A house sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other support that shall be approved by the department.

(3) A support in filled ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock.

(4) A house sewer constructed of flexible thermoplastic sewer piping shall be installed with at least six (6) inches of gravel on the bottom, top and sides of the piping.

Section 14. Storm Sewers in Undisturbed or Filled Ground. (1) A storm sewer laid in undisturbed ground shall not require gravel.

(2) A storm sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

invert or other support that shall be approved by the department.

(3) A support in filled ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock.

Section 15. Drainage Below Sewer Level (Public). In a public building in which the whole or part of the building drain and plumbing system lies below the level of the main sewer, sewage and waste shall be lifted by an approved artificial means and discharged into the house sewer.

Section 16. Drainage Below Sewer Level (Residential). (1) In a home where the house sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump.

(2) The sump pit shall be constructed of either poured or precast concrete, approved fiberglass or polyethylene material with a tight fitting cover.

(3) The sump pit shall be provided with a two (2) inch vent which may also act as a waste and vent for a laundry tray.

(4) The pump discharge piping shall discharge into a two (2) inch waste pipe extended inside the building to a height at least twelve (12) inches above the outside grade.

(5) The sump pit shall be provided with a tight-fitting concrete cover.

(6) On the outside of the building, this waste piping shall connect into a four (4) inch by two (2) inch sanitary tee which shall connect into a four (4) inch P trap and then into the sanitary sewer. The four (4) inch by two (2) inch sanitary tee shall be extended at least two (2) inches above the finished grade and shall be provided with a vented cap.

Section 17. Sumps and Receiving Tanks. A subsoil drain shall discharge into an air tight sump or receiving tank located to receive the sewage by gravity. The sewage shall be lifted and discharged into the house sewer by a pump, ejector or an equally efficient method. The sump shall automatically discharge.

Section 18. Ejectors, Vented. (1) A sewage ejector serving a residential installation shall be vented with a two (2) inch vent.

(2)(a) Except as provided in paragraph (b) of this subsection, an ejector serving a commercial or industrial installation shall be vented with a three (3) inch vent,

(b) Except if a three (3) inch vent stack is serving a fixture that empties into the ejector pit and is located within twenty-five (25) feet of the pit, the ejector may be revented with a two (2) inch vent back to the three (3) inch vent stack. The ejector vent shall not be smaller than that recommended by the manufacturer of the pump.

(3) A portion of the building drainage system that is above the cover of the manhole serving the main that can flow by gravity to a sewer shall be installed for gravity flow to the combined sanitary and storm sewer, except for a system designed otherwise by a licensed professional engineer.

Section 19. Ejector Power: Motors, Compressors, and Air Tanks.

(1) A motor, air compressor, or air tank shall be located where it is open for inspection and repair at all times.

(2) An air tank shall be proportioned to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating.

(3) The end pressure in the tank shall not be less than two (2) pounds for each foot of height through which sewage is raised.

Section 20. Ejectors for Subsoil Drainage. If a subsolf catch basin is installed below the sewer level, an approved automatic ejector shall be used. The ejector or a device raising subsolf water shall discharge into a properly trapped fixture or into a storm-water drain.

Section 21. Drainage of Yards, Areas, Roofs, and Traps. (1) A roof, paved area, court, or courtyard shall be drained into one (1) of the following:

(a) A storm water system;

(b) A combined sewerage system; or

(c) A surface drainage area unless prohibited by the local health department or sewer district.

(2) These areas shall not be drained into a sewer intended for sewage only.

(3) Traps.

(a) If a drain is connected to a combined sewerage system, it shall be trapped.

(b) If a roof leader, conductor, or gutter opening is located more than ten (10) feet from a window, scuttle, or air shaft, a trap shall not be required.

(c) A trap shall be set below the frost line or on the inside of the building.

(d) If a drain is not connected to a combined sewer, a trap shall not be required.

Section 22. Size of Rain Water Leader. An inside leader shall not be less size than the following:

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<tr>
<th>Area of Roof (In Square Feet)</th>
<th>Leader, Diameter (Inches)</th>
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<tr>
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<td>91 to 270</td>
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<td>271 to 810</td>
<td>3</td>
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<td>811 to 1,800</td>
<td>3 1/2</td>
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<td>1,801 to 3,600</td>
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<td>3,601 to 5,500</td>
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<tr>
<td>5,501 to 9,600</td>
<td>6</td>
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</table>

Section 23. Inside Conductors or Roof Leaders. (1) If a conductor or roof leader is placed within the walls of a building, or in an interior court or ventilating pipe shaft, it shall be constructed of cast iron pipe, galvanized wrought iron, galvanized steel, copper, aluminum, schedule 40 ABS/PVC DMV pipe or reinforced thermosetting resin pipe produced and labeled at ASTM D-2996 (red and silver thread).

(2) The vertical distance of PVC or ABS conductors shall not exceed forty-five (45) feet from the base to the penetration through the roof. Provisions shall be made for the expansion and contraction of plastic pipe.

Section 24. Outside Conductors. (1) If an outside sheet metal conductor or downspout is connected to a house drain, it shall be connected by means of a cast iron pipe extending vertically at least one (1) foot above the grade line.

(2) If the downspout runs along a public driveway without a sidewalk, it shall be placed in a niche in the wall, protected by wheel guards, or enter the building through a wall at a forty-five (45) degree slope at least twelve (12) inches above the grade.

Section 25. Defective Conductor Pipes. If an existing sheet metal conductor pipe within the walls of a building becomes defective, the conductor shall be replaced by one which conforms to this administrative regulation.

Section 26. Vent Connectors with Conductors Prohibited. (1) A conductor pipe shall not be used as a soil, waste or vent pipe.

(2) A soil, waste, or vent pipe shall not be used as a conductor.

Section 27. Overflow Pipes. An overflow pipe from a cistern, supply tank, expansion tank, or crip pan shall connect indirectly with a house sewer, house drain, soil or waste pipe.

Section 28. Subsoil Drains, Below Sewer Level. A subsoil drain shall discharge into a sump or receiving tank and shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building it serves.

Section 29. Approvals of New Sewer Connections to Existing Buildings. If the local health department or sanitary sewerage system board, plant, district or treatment plant owner prohibits the discharge of a basement floor drain or other apparatus into the sanitary sewer system, an existing basement floor drain or sump pump apparatus shall comply with the new construction requirements of this administrative regulation [code] and be inspected prior to the approval of a connection for a new sewer line.
FRANK PHIEFFER, Chairman
JUDITH G. WALDEN, Office of General Counsel
DENNIS J. LANGFORD, Commissioner
RONALD MCLOUD, Secretary
APPROVED BY AGENCY: February 14, 2000
FILED WITH LRC: June 25, 2000 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, August 1, 2000)

815 KAR 20:150. Inspection and tests.

RELATES TO: KRS 318.090, 318.130, 318.134, 318.140, 318.150, 318.170 [Chapter 410]

STATUTORY AUTHORITY: KRS 1988.040(1), 318.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130
requires the department, after review by the State Plumbing Code
Committee to promulgate an administrative regulation establishing the State Plumbing Code. This administrative regulation establishes the requirements for the tests and inspections that are necessary in order to ensure compliance with 815 KAR Chap-
ter 20, the State Plumbing Code. [The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This administrative regulation relates to tests and inspections that are necessary in order to cause compliance with other administrative regulations of this code.] This administrative regulation is amended to reduce the air-pressure test requirements thereby making the test consistent with the water test requirements. Other amendments were necessary to bring the administrative regulation into technical compliance with KRS Chapter 419A.-

Section 1. Inspections and Tests. The water distribution system, the soil, waste and vent system, the fixtures and fixture traps, appur-
tenances and all connections in a plumbing system shall be inspected and tested by the department to insure compliance. In buildings condemned by other authorities because of unsanitary conditions of the plumbing system, the alterations shall be considered as a new plumbing system.

Section 2. Material and Labor for Tests. All equipment, material and labor necessary for inspections and tests shall be furnished by the persons procuring the plumbing construction permits.

Section 3. Systems of Tests. (1) Test for the potable water supply system. The potable water supply system shall be tested and found without leaks under the normal working pressure under which the system will function.

(2) Tests for the soil or waste and vent system. (a) The soil or waste and vent system of the plumbing system shall be tested with water or other tests approved by the department before it is concealed or covered within the floors or walls of a building.

(b) After the plumbing fixtures have been set and their traps filled with water and before the building is occupied, the entire system, other than the house sewer, shall be subjected to a final air pressure test.

(c) It shall be the responsibility of the person who secured the plumbing construction permit to notify the department representative and request a final inspection and air test upon completion of the installation.

(d) If [in the event] only a portion of the plumbing fixtures are set, an air test shall be requested and given prior to the time a building is occupied. After the plumbing system is finally completed, another inspection and test shall [must] be requested and given.

(e) The department may require the removal of any clean-outs to ascertain whether or not the pressure has reached all parts of the system.

(3) Tests of the house sewer. The house sewer shall be tested with either a water or a smoke test.

Section 4. Methods of Testing. (1) The potable water supply sys-

- 776 -
Section 12. Inspections and Tests for the Replacement of Old Plumbing Fixtures. Inspections and tests shall not be required if:
(1) [when] Old plumbing fixtures are replaced with new fixtures;
(2) [ones or where] Faucets or valves are replaced; or
(3) [where] Leaks are repaired.

Section 13. Certificate of Approval. Upon the satisfactory completion and final test of the plumbing system, a certificate of approval shall be issued by the department.

FRANK PHIEFFER, Chairman
JUDITH G. WALDEN, Office of General Counsel
DENNIS J. LANGFORD, Commissioner
RONALD MCCLOUD, Secretary
APPROVED BY AGENCY: February 14, 2000
FILED WITH LRC: June 25, 2000 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, August 1, 2000)

815 KAR 20:191. Minimum fixture requirements.

RELATES TO: KRS 58.200, 318.130, 318.160
STATUTORY AUTHORITY: KRS 1988.040(10), 318.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130
requires the department, after approval by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. KRS 58.200(2) requires newly-constructed public buildings to be equipped with twice the number of restroom facilities for use by women as is provided for use by men. KRS 1988.040(10) requires the Kentucky Board of Housing, Buildings and Construction to promulgate administrative regulations for the safe installation and operation of plumbing fixtures. This administrative regulation establishes the minimum fixture requirements for buildings in Kentucky.

Section 1. General Requirements. (1) In a building [buildings] accommodating males and females it shall be presumed that the occupants will be equally divided between males and females, unless otherwise denoted.
(2) The occupancy load factor used to determine the total number of plumbing fixtures required in a building shall be that denoted in [Chapter 10, Section 1009 of the 1994 edition of the Kentucky Building Code, incorporated by reference in 815 KAR 7:105 (unless otherwise denoted).]
(3) All types of buildings shall be provided with toilet rooms on each level or floor, unless [-however, if] the department determines that:
(a) Separate facilities on each level or floor are unnecessary; and
(b) [ ] Toilet rooms on every other level or floor shall be sufficient.
(4) Toilet rooms for males and females shall be clearly marked.

Section 2. Toilet Floor Construction Requirements. (1) Floors in toilet rooms providing facilities for use by the general public or employees shall be constructed of nonabsorbent materials.
(2) If a wood floor is used, the wood floor shall be [-however, wood floors shall not be prohibited] covered by other nonabsorbent materials.
(3) If two (2) or more fixtures that receive human waste are installed, [if more than one (1) water closet and one (1) lavatory is installed], the toilet room shall have at least one (1) floor drain and one (1) accessible hose bibb.

Section 3. Facilities for Stages. (1) A separate water closet and lavatory shall be provided for males and females in the stage area.
(2) A drinking fountain shall be provided in the stage and auditorium area.

Section 4. Theaters, Assembly Halls and Similar Occupancies.

Separate toilet rooms for males and females shall be provided as indicated in Sections 1, 2, and 3 of this administrative regulation, and as follows:
(1) Water closets and urinals for males.
(a) Water closets for males shall be installed in the following proportions:
   1. One (1) water closet for each 100 males;
   2. Two (2) water closets for 101 to 200 males;
   3. Three (3) water closets for 201 to 400 males; and
   4. If over 400 males, three (3) water closets plus one (1) additional [add one (1)] water closet for each additional 500 males or fraction thereof.
(b) Urinals for males shall be installed in the following proportions:
   1. One (1) urinal for eleven (11) to 100 males;
   2. Two (2) urinals for 101 to 300;
   3. Three (3) urinals for 301 to 600; and
   4. If over 600 males, three (3) urinals plus one (1) additional [add one (1)] urinal for each additional 500 males or fraction thereof.
(2) Water closets for females. Water closets for females shall be installed in the following proportions:
(a) One (1) water closet for each fifty (50) females;
(b) Two (2) water closets for fifty-one (51) to 100 females;
(c) Three (3) water closets for 101 to 150 females;
(d) Four (4) water closets for 151 to 200 females; and
(e) If over 200 females, four (4) water closets plus one (1) additional [add one (1)] water closet for each additional 150 females or fraction thereof.
(3) Lavatories. Lavatories shall be installed in the following proportions:
(a) One (1) lavatory for up to 100 males or females;
(b) Two (2) lavatories for 101 to 200;
(c) [ ] Three (3) lavatories for 201 to 400;
(d) Four (4) lavatories for 401 to 750; and
(e) If over 750 persons, four (4) lavatories plus one (1) additional [add one (1)] lavatory for each additional 500 persons or fraction thereof [or less over 750].
(4) Sinks. There shall be one (1) service sink or slop sink on each floor.
(5) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.
(6) Drinking Fountain. A drinking fountain shall be provided on each floor for each 500 persons or fraction thereof.
(7) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 5. Libraries, Museums and Art Galleries. Separate toilet facilities for males and females shall be provided as indicated in Sections 1, 2, and 3 of this administrative regulation, and as follows:
(1) There shall be one (1) water closet and one (1) lavatory for each 100 females or fraction thereof.
(2) Except as provided in subsection (7) of this section, there shall be one (1) water closet and one (1) lavatory for each 200 males or fraction thereof.
(3) There shall be:
(a) One (1) urinal for eleven (11) to 200 males;
(b) Two (2) urinals for 201 to 400;
(c) [ ] Three (3) urinals for 401 to 600; and
(d) If over 600 males, three (3) urinals plus one (1) additional [add one (1)] urinal for each additional 300 males or fraction thereof.
(4) There shall be one (1) service sink or slop sink on each floor.
(5) A drinking fountain shall be provided for each 500 persons or fraction thereof.
(6) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area. [The above number of fixtures shall be based upon the actual number of persons that may be accommodated;]
(7) Urinals may be substituted for water closets for males if:
(a) The substituted urinals do not [-not be] exceed one-third (1/3) of the required total number of water closets; and
(b) (but in all cases) The minimum number of urinals is [shall be]
installed.

8. Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 6. School Buildings [relates also to 702 KAR 4-170]. A school building shall be in compliance with the requirements established in 702 KAR 4-170 and this section.

1. Drinking fountains.
   a. A drinking fountain shall be provided on each floor and wing of a building. One [1] Addition: an additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof.
   b. The fountains shall be equipped with:
      1. A protective cowl; and
      2. The orifice, which shall be one (1) inch above the overflow rim of the fountain.

2. Elementary through secondary level school buildings shall be provided with the following:
   a. Water closets for males shall be installed in the following proportions:
      1. One (1) water closet for up to twenty-five (25) pupils;
      2. Two (2) water closets for twenty-six (26) to fifty (50) pupils; and
      3. If over one hundred (100) pupils, two (2) water closets plus one (1) additional [One (1) + one (1) = two (2)] water closet for each hundred (100) pupils or fraction thereof [n excess of 100].

   b. Urinals for males shall be installed in the following proportions:
      1. One (1) urinal for up to twenty-five (25) pupils;
      2. Two (2) urinals for twenty-six (26) to fifty (50) pupils;
      3. Three (3) urinals for fifty-one (51) to 100 pupils;
      4. Six (6) urinals for 101 to 200 pupils;
      5. Eight (8) urinals for 201 to 300 pupils;
      6. Ten (10) urinals for 301 to 400 pupils;
      7. Twelve (12) urinals for 401 to 500 pupils; and
      8. If over 500 pupils, twelve (12) urinals plus one (1) additional [One (1) + one (1) = two (2)] urinal for each fifty (50) pupils or fraction thereof in excess of 500.

   c. Water closets for females shall be installed in the following proportions:
      1. Two (2) water closets for up to twenty-five (25) pupils;
      2. Three (3) water closets for twenty-six (26) to fifty (50) pupils;
      3. Six (6) water closets for fifty-one (51) to 100 pupils;
      4. Eight (8) water closets for 101 to 200 pupils;
      5. Ten (10) water closets for 201 to 300 pupils;
      6. Twelve (12) water closets for 301 to 400 pupils;
      7. Fourteen (14) water closets for 401 to 500 pupils; and
      8. If over 500 pupils, fourteen (14) water closets plus one (1) additional [One (1) + one (1) = two (2)] water closet for each forty (40) pupils or fraction thereof in excess of 500.

   d. 1. Lavatories for male and female pupils shall be installed in the following proportions:
      a. [1] One (1) lavatory for each twenty-five (25) pupils or fraction thereof; and
      b. [2] Two (2) lavatories for each fifty (50) pupils or fraction thereof; and
      c. [3] If over fifty (50) pupils, two (2) lavatories plus one (1) additional [3 = Add one (1) = four (4)] lavatory for each fifty (50) pupils or fraction thereof over fifty (50).

2. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin, if provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

3. One (1) service sink or slop sink shall be installed on each floor of a building.

4. If detached relocatable classrooms are used use, sanitary facilities shall not be required, if:
   a. The classroom is within the distance to not exceed thirty-five (35) feet from the main structure; and
   b. There are sufficient fixtures in the main structure to serve the entire capacity of the school, including the relocatable classrooms.

5. Water closets in a school building [for use in the above facilities] shall be of the elongated bowl type with a split open front seat.

Section 7. Schools of Higher Education and Similar Educational Facilities. [As provided in paragraph (b) of this subsection, in a school] [school] of higher education or a similar education facility. [and similar institutions] there shall be installed:

1. [1] One (1) water closet for each fifty (50) males or one (1) water closet for each twenty-five (25) females or fraction thereof; and

2. [2] One (1) lavatory for each fifty (50) males or females or fraction thereof; and

3. [3] One (1) drinking fountain for each seventy-five (75) persons or fraction thereof; and

4. [4] One (1) urinal shall-be-provided] for each thirty (30) males or fraction thereof.

5. One (1) water closet less than the number specified in paragraph (a) of this subsection may be provided for each urinal installed except that the number of water closets in those cases shall not be reduced to less than two-thirds (2/3) of the minimum specified.

6. [6] Water closets in a school of higher education or a similar education facility. [for use in the above facilities] shall be of the elongated bowl type with a split open front seat.

Section 8. Public Garages and Service Stations. [1] Separate toilet rooms shall be provided with at least:

a. A water closet and lavatory for females; and

b. A water closet, lavatory and urinal for males [shall-be-provided].

2. Water closets shall be of the elongated bowl type with a split open front seat.

Section 9. Churches. [1] Sanitary facilities shall be provided in a church [churches] as follows:

a. One (1) drinking fountain for each four hundred (400) persons or fraction thereof; and

b. One (1) water closet for each 150 males or fraction thereof; and

c. One (1) water closet for each 300 males or fraction thereof; and

d. One (1) urinal for each 150 males or fraction thereof; and

e. One (1) lavatory for each 150 persons or fraction thereof; and

f. Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 10. Transient Facilities [relates also to 902 KAR 10-1919]. A transient facility shall be in compliance with the requirements established in 902 KAR 10-101 and this section.

1. A hotel or motel [Hotels and motels] with private rooms shall have one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

2. In the public and service areas, there shall be:
   a. One (1) water closet for each twenty-five (25) males or fraction thereof; and
   b. One (1) water closet for each fifteen (15) females or fraction thereof; and
   c. One (1) lavatory for each twenty-five (25) males or fraction thereof; and
   d. One (1) urinal for each eleven (11) to 100 males plus one (1) additional urinal [then one (1) = four (4)] for each additional fifty (50) males or fraction thereof; and
   e. One (1) bathtub or shower, if needed, for each ten (10) males or females or fraction thereof; and
   f. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof on each floor; and
   g. One (1) service sink or slop sink on each floor.

3. In residential-type buildings, there shall be one (1) water closet, one (1) lavatory and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

4. In rooming houses with private baths, there shall be [shall have] one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

5. In rooming houses without private baths, there shall be:
   a. One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty-five (25) males or fraction thereof; and
   b. One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) females or fraction thereof; and
   c. One (1) urinal for eleven (11) to 100 males and [then] one (1) for each additional fifty (50) males or fraction thereof; and

6. Water closets in a school building for use in the above facilities shall be of the elongated bowl type with a split open front seat.
(d) One (1) lavatory for each ten (10) males or females or fraction thereof; and
(e) One (1) bathtub or shower for each ten (10) males or females or fraction thereof.

Section 11. Dormitories: School, Labor or Institutional [relates also to 902-KAR 19-055, 902-KAR 19-056, 902-KAR 19-046, 902-KAR 19-044]. In a dormitory [dormitories], there shall be installed the fixtures required by this section:

(1) Water closets, there shall be:
(a) One (1) water closet for up to ten (10) males with one (1) additional water closet for each additional twenty-five (25) males or fraction thereof; and
(b) One (1) water closet for up to eight (8) females with one (1) additional [add one (1)] water closet for each additional twenty-five (25) males or fraction thereof and one (1) water closet for each additional twenty (20) females or fraction thereof.

(2) Urinals,
(a) There shall be one (1) urinal for each twenty-five (25) males or fraction thereof, and if there is [is] over 150 males, one (1) additional urinal [add one (1) fixture] for each additional fifty (50) males or fraction thereof.
(b) If urinals are provided for women, the same number shall be provided for women as for men.
(c) If urinals are provided, a urinal [they] may be required for a water closet [water closets], not to exceed one-third (1/3) of the required total number of water closets.
(d) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3) Lavatories,
(a) There shall be one (1) lavatory for one (1) to twelve (12) persons, with an additional [add one (1)] one (1) lavatory for each twenty (20) males and each fifteen (15) females.
(b) Separate dental lavatories shall be provided in community toilet rooms at a ratio of one (1) dental lavatory to fifty (50) persons.

(4) Additional fixtures. There shall be:
(a) One (1) bathtub or shower for each eight (8) persons. If there is over 150 persons, there shall be one (1) additional [add one (1)] fixture for each twenty (20) persons. For women's dormitories, there shall be installed additional bathtubs at the ratio of one (1) for each thirty (30) women;
(b) [5]
(c) [6] One (1) drinking fountain for each seventy-five (75) persons;
(d) [7] One (1) service sink or slop sink for each 100 persons, and
(e) [8] One (1) service sink or slop sink for each 100 persons.
(5) If the dormitory is located in a youth camp, the requirements of 902 KAR 10:040 shall apply in addition to the requirements established in this section.

Section 12. Hospitals, Nursing Homes and Institutions [relates also to 902-KAR 20:031, 902-KAR 20:046, 902-KAR 20:056, 902-KAR 9-044]. A hospital, nursing home, or institution shall comply with the requirements established in 902 KAR 20:031, 902 KAR 20:046, 902 KAR 20:056, 902 KAR 9:010, and this section. Sanitary facilities shall be provided on each floor level and shall conform to the following:

(1) Hospitals.
(a) Wards. There shall be:
1. One (1) water closet for each ten (10) patients;
2. One (1) lavatory for each ten (10) patients;
3. One (1) tub or shower for each fifteen (15) patients; and
4. One (1) drinking fountain for each 100 patients.
(b) Individual rooms, There shall be [are] one (1) water closet, one (1) lavatory and one (1) tub or shower,
(c) Waiting rooms, There shall be [are] one (1) water closet and one (1) lavatory.
(2) Nursing homes and institutions (other than penal). There shall be:
(a) One (1) water closet for each twenty-five (25) males or fraction thereof;
(b) One (1) water closet for each twenty (20) females or fraction thereof; and
(c) One (1) lavatory for each ten (10) persons or fraction thereof.
(d) One (1) urinal for each fifty (50) males;
(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof;
(f) One (1) drinking fountain on each floor; and
(g) One (1) service sink or slop sink on each floor.
(3) Institutions, penal.
(a) Cell. There shall be:
1. One (1) prison type water closet; and
2. One (1) prison type lavatory.
(b) Day rooms and dormitories.
1. There shall be:
   a. One (1) water closet for each eight (8) female inmates or fraction thereof and one (1) water closet for each twelve (12) male inmates or fraction thereof.
   b. [6] One (1) lavatory for each twelve (12) inmates or fraction thereof;
   c. [7] One (1) shower for each fifteen (15) inmates or fraction thereof.
   d. [8] One (1) urinal may be substituted for each water closet but in no instance shall the water closets be reduced to less than one-half (1/2) the number required;
   e. One (1) drinking fountain per floor; and
   f. [9] One (1) service sink or slop sink per floor.
   g. One (1) urinal may be substituted for each water closet if the number of water closets is not reduced to less than one-half (1/2) the number required.
(c) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.
(d) There shall be one (1) drinking fountain on each floor.
(e) There shall be one (1) service sink or slop sink per floor.

Section 13. Workshops, Factories, Mercantile and Office Buildings. Separate toilet facilities shall be provided for males and females on each floor unless otherwise denoted.

(1) Workshops and factories: Sanitary facilities shall conform to the following:
(a) There shall be:
   1. One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100;
   2. [bb] One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100;
   3. [cc] One (1) urinal for each fifteen (15) persons or fraction thereof, up to 100;
   4. [dd] One (1) urinal for each twenty-five (25) males or fraction thereof, up to 100;
   5. [ee] One (1) water closet for each fifteen (15) females or fraction thereof, up to 100;
   6. [ff] One (1) drinking fountain on each floor for each additional seventy-five (75) persons; and
   7. [gg]
   (g) When in excess of 100, there shall be;
      a. One (1) [an] additional water closet for each thirty (30) males and each thirty (30) females or fraction thereof;
      b. One (1) additional lavatory for each additional fifty (50) males and females or fraction thereof; and
      c. One (1) additional urinal for each 100 males or fraction thereof;
      d. [hh] One (1) shower for each fifteen (15) persons exposed to skin contamination from irritating, infectious or poisonous materials;
      e. [ii] One (1) drinking fountain on each floor for each additional seventy-five (75) persons; and
      10. [jj] One (1) service sink or slop sink per floor.
   (b) [kk] Individual sinks or wash troughs may be used in lieu of lavatories. Twenty-four (24) inches of sink or trough, if provided with water, or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.
(2) Mercantile.
(a) Employees.
1. Except as provided in subparagraph 2 of this paragraph, sanitary facilities within each store shall be provided for employees, [and] if
more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For a store [EXCEPTION: For stores] containing no more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of no more than 500 feet.

(b) Customers.

1. Sanitary facilities shall be provided for customers [if] when the building contains 5,000 square feet or more.

2. In a mall or shopping center [in-mall and shopping centers], the required facilities, based on one (1) person per 100 square feet of total area, shall [may] be installed in individual stores or in a central toilet room area or areas, if:

   a. The distance from the main entrance of a store does not exceed 500 feet; and

   b. The toilet room area is [if] accessible to physically disabled persons.

   (c) Sanitary facilities shall be provided as stated in this section and there shall be [shall conform as follows]:

   1. One (1) water closet for one (1) to 100 persons; [;]

   2. Two (2) water closets for 101 to 200 persons; [;]

   3. Three (3) water closets for 201 to 400 persons; [;]

   4. One (1) water closet for each 500 males, or 300 females, in excess of 400; [;]

   5. One (1) urinal for one (1) to 200 males; [;]

   6. Two (2) urinals for 201 to 400 males; [;]

   7. Three (3) urinals for 401 to 600 males; [;]

   8. One (1) urinal for each 300 males, or fraction thereof, over 600; [;]

   9. One (1) lavatory for one (1) to 200 persons; [;]

   10. Two (2) lavatories for 201 to 400 persons; [;]

   11. Three (3) lavatories for 401 to 700 persons; [;]

   12. One (1) lavatory for each 500 persons, or fraction thereof, in excess of 700; [;]

   13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and [;]

   14. One (1) service sink or stop sink per floor.

   (3) Office buildings.

   (a) Employees.

       1. Except as provided in subparagraph 2 of this paragraph, sanitary facilities within office buildings shall be provided for employees, [and] if more than five (5) persons are employed, separate facilities for each sex shall be provided.

       2. For an office building [EXCEPTION: For office buildings] containing no more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of no more than 500 feet.

   (b) Customers.

       1. Sanitary facilities shall be provided for customers [if] when the office building or space contains 5,000 square feet or more.

       2. In an office building [in-office buildings], the required facilities, based on one (1) person per 100 square feet of total area, shall [may] be installed within the individual offices, or in a central toilet room area or areas:

           a. The distance from the main entrance of an office does not exceed 500 feet; and

           b. The toilet room area is [if] accessible to physically disabled persons.

   (c) Sanitary facilities shall be provided as stated in this section:

       1. There shall be [shall conform as follows]:

           a. [;] One (1) water closet for one (1) to fifteen (15) persons;

           b. [;] Two (2) water closets for sixteen (16) to thirty-five (35) persons;

           c. [;] Three (3) water closets for thirty-six (36) to fifty-five (55) persons;

           d. [;] Four (4) water closets for fifty-six (56) to eighty (80) persons;

           e. [;] Five (5) water closets for eighty-one (81) to 110 persons;

           f. [;] Six (6) water closets for 111 to 150 persons;

           g. [;] One (1) water closet for each forty (40) additional persons;

           h. [;] One (1) lavatory for one (1) to fifteen (15) persons;
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(5) The requirement relating to bathhouse toilet room and shower facilities may be waived if the facilities are conveniently available to pool patrons within 150 feet from the pool.

Section 15. Park Service Buildings or Bathhouses (relates to 902 KAR 15:020). A park service building or bathhouse shall comply with the requirements established in 902 KAR 15:020 and this section.

(1) Except for a self-contained recreational vehicle park (parkette), sanitary facilities shall be provided as follows:

(a) If there are one (1) to fifteen (15) vehicle spaces, there shall be:

1. Males. One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower; and [§]

2. Females. One (1) water closet, one (1) lavatory and one (1) shower; and [§]

(b) If there are sixteen (16) to thirty (30) vehicle spaces, there shall be:

1. Males. One (1) water closet, one (1) urinal, two (2) lavatories and two (2) showers; and [§]

2. Females. Two (2) water closets, two (2) lavatories and two (2) showers; [§]

(c) If there are thirty-one (31) to forty-five (45) vehicle spaces, there shall be:

1. Males. Two (2) water closets, one (1) urinal, three (3) lavatories and three (3) showers; and [§]

2. Females. Two (2) water closets, three (3) lavatories and three (3) showers; [§]

(d) If there are forty-six (46) to sixty (60) vehicle spaces, there shall be:

1. Males. Two (2) water closets, two (2) urinals, three (3) lavatories and three (3) showers; and [§]

2. Females. Three (3) water closets, three (3) lavatories and five (5) showers; [§]

(e) If there are sixty-one (61) to eighty (80) vehicle spaces, there shall be:

1. Males. Three (3) water closets, two (2) urinals, four (4) lavatories and four (4) showers; and [§]

2. Females. Four (4) water closets, four (4) lavatories and four (4) showers; [§]

(f) If there are eighty-one (81) to 100 vehicle spaces, there shall be:

1. Males. Four (4) water closets, two (2) urinals, five (5) lavatories and five (5) showers; and [§]

2. Females. Five (5) water closets, five (5) lavatories and five (5) showers; [§]

(g) If over 100 vehicle spaces are provided, there shall be provided:

1. One (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof;

2. One (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and

3. One (1) additional urinal for males per additional 100 vehicle spaces.

Section 16. Residential and Day Camp Sites (relates to 902 KAR 46:040). A residential or day camp site shall comply with the requirements established in 902 KAR 10:040 and this section.

(1)(a) Each residential (and-day) camp site shall be provided with sanitary facilities for each sex as specified in this section.

(b) A day camp shall:

1. Not be required to provide shower facilities; and

2. Provide all other sanitary facilities for each sex as specified in this section.

Sanitary facilities shall be provided as follows: listed below, but day camps shall not be required to provide shower facilities.

(a) If there are one (1) to eighteen (18) persons served, there shall be:

1. Males. One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower; and [§]

2. Females. Two (2) water closets, one (1) lavatory and one (1) shower; [§]

(b) If there are nineteen (19) to thirty-three (33) persons served, there shall be for:

1. Males. Two (2) water closets, one (1) urinal, two (2) lavatories and two (2) showers; and [§]

2. Females. Two (2) water closets, two lavatories and two showers; [§]

(c) If there are thirty-four (34) to forty-eight (48) persons served, there shall be:

1. Males. Two (2) water closets, two (2) urinals, two (2) lavatories and three (3) showers; and [§]

2. Females. Three (3) water closets, two (2) lavatories and three (3) showers; and [§]

(d) If there are forty-nine (49) to sixty-three (63) persons served, there shall be:

1. Males. Three (3) water closets, two (2) urinals, three (3) lavatories and four (4) showers; and [§]

2. Females. Four (4) water closets, three (3) lavatories and four (4) showers; [§]

(e) If there are sixty-four (64) to seventy-nine (79) persons served, there shall be:

1. Males. Three (3) water closets, three (3) urinals, three (3) lavatories and five (5) showers; and [§]

2. Females. Five (5) water closets, three (3) lavatories and five (5) showers; [§]

(f) If there are eighty (80) to ninety-five (95) persons served, there shall be:

1. Males. Four (4) water closets, three (3) urinals, four (4) lavatories and six (6) showers; and [§]

2. Females. Six (6) water closets, four (4) lavatories, and six (6) showers; and [§]

(g) If over ninety-five (95) persons are served, there shall be provided:

1. One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served;

2. One (1) additional shower for each twenty (20) persons; or fraction thereof; served; and

3. One (1) additional urinal per fifty (50) additional males or fraction thereof.

(3) [The] Water closets may be substituted for urinals if facilities are to be used by both sexes.

Section 17. Retail Food Stores and Restaurants. Sanitary facilities shall be provided for employees. A retail food store or restaurant shall comply with the requirements established in 902 KAR 10:020 and 902 KAR 46:005 and this section. (relates to 902 KAR 10:020 and 902 KAR 46:005)

(1) Food stores.

(a) If more than five (5) persons of different sex are employed, separate facilities shall be provided for the employees.

(b) Sanitary facilities shall be provided for customers if the building contains 5,000 square feet or more. In a mall or shopping center (mall) the required facilities, based on one (1) person per fifty (50) square feet, shall be installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of a store does not exceed 500 feet.

(c) There shall be:

1. One (1) water closet for one (1) to 100 persons; [§]

2. Two (2) water closets for 101 to 200 persons; [§]

3. Three (3) water closets for 201 to 400 persons; [§]

4. One (1) water closet for each 500 males or 300 females in excess of 400; [§]

5. One (1) urinal for eleven (11) to 200 males; [§]

6. Two (2) urinals for 201 to 400 males; [§]

7. Three (3) urinals for 401 to 600 males; [§]

8. One (1) urinal for each 300 males or fraction thereof, over 600; [§]

9. One (1) lavatory for one (1) to 200 persons; [§]

10. Two (2) lavatories for 201 to 400 persons; [§]

11. Three (3) lavatories for 401 to 700 persons; [§]

12. One (1) lavatory for each 500 persons or fraction thereof in excess of 700; [§]
13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and [·]
14. One (1) service sink, utility sink or curbed mop basin per floor as required.
(2) Restaurants.
(a) If more than five (5) persons of different sex are employed, separate facilities shall be provided for the employees.
(b) In a new establishment or an establishment that is [new establishments or establishments that are] extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees. Carryout type food service operations shall be exempt from providing toilet facilities for the use of their patrons.
(c) There shall be:
1. Two (2) water closets for one (1) to 100 persons; [·]
2. Three (3) water closets for 101 to 200 persons; [·]
3. Four (4) water closets for 201 to 300 persons; and [·]
4. One (1) water closet for each additional 200 persons or fraction thereof over 300.
(d) There shall be:
1. One (1) urinal for eleven (11) to 200 males; and [·]
2. One (1) additional urinal for each additional 150 males or fraction thereof over 150.
(e) There shall be:
1. One (1) lavatory for one (1) to 200 persons; [·]
2. Two (2) lavatories for 201 to 400 persons; [·]
3. Three (3) lavatories for 401 to 600 persons; and [·]
4. One (1) additional lavatory for each additional 200 persons or fraction thereof over 600.
(f) There shall be:
1. One (1) drinking fountain for one (1) to 100 persons; and [·]
2. Two (2) drinking fountains for 101 to 500 persons or fraction thereof.
(g) If food is consumed indoors on the premises, water stations may be substituted for drinking fountains.
(h) There shall [will] be one (1) service sink, utility sink or curbed mop basin on each floor as required.
(i) Lavatories for hand washing shall be provided in the kitchen area, readily accessible to the employees. If the service or utility sink is placed in a location readily accessible to the employees as determined by the Cabinet for Health Services [Human Resources], it may substitute for the lavatory.

Section 18. Temporary Facilities for Construction Projects. Separate sanitary fixtures shall be provided as scheduled below for both males and females:
(1) One (1) water closet per thirty (30) males or fraction thereof; [·]
(2) One (1) urinal per thirty (30) males or fraction thereof; [·]
(3) One (1) lavatory per thirty (30) males or fraction thereof; [·]
(4) One (1) water closet per twenty (20) females or fraction thereof; [·]
(5) One (1) lavatory per twenty (20) females or fraction thereof; and [·]
(6) One (1) drinking fountain per 100 persons or fraction thereof.

FRANK PHIEFFER, Chairman
JUDITH G. WALDEN, Office of General Counsel
DENNIS J. LANGFORD, Commissioner
RONALD MCCLOUD, Secretary
APPROVED BY AGENCY: February 14, 2000
FILED WITH LRC: June 25, 2000 at 11 a.m.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(As Amended at AARR, August 1, 2000)

902 KAR 100:010. Definitions for 902 KAR Chapter 100.

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 20.1003-20.1005

STATUTORY AUTHORITY: KRS 194A.050, 211.090(3), 211.844, 10 CFR 20.1003-20.1005

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844 authorizes the Cabinet for Health Services to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation establishes definitions for 902 KAR Chapter 100, [provides definitions as applicable to 902 KAR Chapters 100 and 165.]

Section 1. Definitions. [As used in these administrative regulations, these terms have the definitions set forth below] (1) "A" and "A";
(a) "A" means the maximum activity of special form radioactive material permitted in a Type A package;
(b) "A" means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package;
(c) These values are listed in 902 KAR 100:070, Section 21, or may be derived under the procedure prescribed in 902 KAR 100:070, Section 20.
(2) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the rad and the gray (Gy).
(3) "Accelerator" means a machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one (1) MeV, such as the cyclotron, synchrotron, synchrocyclotron, betatron, linear accelerator, and Van de Graaff electrostatic generator.
(4) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.
(5) "Act" is defined at KRS 211.840 as the "Kentucky Radiation Control Act of 1978." [Means KRS 211.842 to 211.852.]
(6) "Activity" means the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the curie (Ci) and the becquerel (Bq).
(7) "Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used or stored.
(8) "Adult" means an individual eighteen (18) or more years of age.
(9) "Agreement state" means a state with which the United States Nuclear Regulatory Commission or the United States Atomic Energy Commission has entered into an effective agreement under subsection 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).
(10) "Airborne radioactive material" means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.
(11) "Airborne radioactive area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of radioactive material, exists in concentrations:
(a) in excess of the derived air concentrations ([BAGs]) specified in KRS 902 KAR 100:19, Section 44; or
(b) [For a degree] That an individual [is] present in the area without respiratory protective equipment may exceed [during the hours an individual is present in a week] an intake of six tenths (0.6) percent of the annual limit on intake ([AHL]) twelve (12) DAC hours.
(12) "Alert" means the notice given when an event [events] may occur, is [are] in progress, or has [have] occurred that may [could] lead to a release of radioactive material, but [that] the release is not expected to require a response by an off-site response organization in order [organizations] to protect persons offsite.
(13) "Aluminum equivalent" means the thickness of type 1100 aluminum, which is composed of at least (99.90 percent) minimum aluminum, 0.12 percent copper, and [percent] aluminum, affording the same attenuation, under specified conditions, as the material for which it is substituted [in question].
(14) "Analytical x-ray system [systems]" means a system which utilizes x-rays for the examination of the structure of materials, such as x-ray diffraction and spectrographic equipment.
(15) "Annual limit on intake," or "ALI" [All] means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller
VOLUME 27, NUMBER 3 — SEPTEMBER 1, 2000

d value of annual intake of a given radionuclide [in-m-year] by the reference man that would result in:
(a) A committed effective dose equivalent of five (5) rem(s) or
[0.05 Sv; (1)] or
(b) A committed dose equivalent of fifty (50) rem(s) or [0.5 Sv; (2)] to an individual organ or tissue. [4.4 values for intake by ingestion and by inhalation of selected radionuclides are given in 100 KAR 100:019, Section 44, Table I, Columns 1 and 2; (3)]

(16) "Area of use" means a portion of a physical structure that has been set aside for the purpose of receiving, using or storing radioactive material.

(17) "As low as reasonably achievable" or "ALARA [(ALARA)] means making every reasonable effort to maintain exposures to radiation as far below the dose limits established in 902 KAR 100:019 as practical, consistent with the purpose for which the licensed activity is undertaken. ALARA shall take into account the state of technology, the economics of improvement in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, in relation to the utilization of nuclear energy and radioactive materials in the public interest.

(18) "Attenuation" means the reduction of exposure rate upon passage (passages) of radiation through matter.

(19) "Attenuation block" means a block or stack, having dimensions twenty (20) centimeters [cm] by twenty (20) centimeters [cm] by three and eight-tenths (3.8) centimeters [cm], of type 1100 aluminum alloy or other materials having equivalent attenuation.

(20) "Authorized nuclear pharmacist" means a pharmacist who is:
(a) Board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties; or
(b) Identified as an authorized nuclear pharmacist on a cabinet, Agreement State or U.S. Nuclear Regulatory license that authorizes the use of radioactive material in the practice of nuclear pharmacy.

(21) "Automatic exposure control" means a device which automatically controls one (1) or more technique factors in order to obtain, at a preselected location, a required quantity of radiation.

(22) "Authorized user" means a physician, dentist, or podiatrist, identified as an authorized user on a cabinet, U.S. Nuclear Regulatory Commission, or other [another] agreement state license that authorizes the medical use of radioactive material.

(23) "Background radiation" means radiation not under the control of the licensee, including:
(a) From cosmic sources;
(b) [i] Naturally occurring radioactive materials;
(c) [i-including Radon that is not [except as a decay product of source or special nuclear material; and
(d) [i-and] Global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents [such as Chernobyl that contribute to background radiation and are not under the control of the license]. Background radiation shall not include radiation from radioactive materials regulated by the Cabinet for Human Resources.

(24) "Beam axis" means a line from the source through the centers of the x-ray fields.

(25) "Beam limiting device" or "collimator" [(collimator)] means a device which provides a means to restrict the dimensions of the x-ray field.

(26) "Beam monitoring system" means a system designed to detect and measure the radiation present in the useful beam.

(27) "Becquerel" means a unit, in the International System of Units (SI), of measurement of radioactivity equal to one (1) transformation per second.

(28) "Bioassay," or "radiobioassay" [(radiobioassay)] means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

(29) "Brachytherapy" means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver radiation at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(30) "Broker" or "waste broker" [(waste broker)] means a person who takes possession of low-level waste solely for the purposes of consolidation and shipment.

(31) "By-product material" means:
(a) Radioactive material, [except special nuclear material, (i)] yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; or [and]
(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including concrete surface waste resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations shall not constitute by-product material within this definition.

(32) "Cabinet" means Cabinet for Health Sciences [Human Resources], or its duly authorized representatives.

(33) "Cabinet radiography" means industrial radiography conducted in an enclosure or cabinet shielded so that radiation levels at every location on the exterior meet the limitations specified in 902 KAR 100:019, Section 11.

(34) "Cabinet x-ray system [(X-ray systems)] means an x-ray system with the x-ray tube installed or used in a permanent enclosure in which the enclosure is intended to contain at least that portion of the material being irradiated. The enclosure:
(a) May be the architectural structure or may be independent of the architectural structure;
(b) [but regardless, the structure of the enclosure] Shall provide attenuation of the radiation to meet the requirements of 902 KAR 100:105; and
(c) [relating to the possession, use, and operation of x-ray systems] and Shall exclude personnel from its interior during the generation of x-radiation. This definition shall not include x-ray systems used by licensed practitioners of healing arts.

(35) "Calendar quarter" means between [not less than] twelve (12) and [consecutive weeks no more than] fourteen (14) consecutive weeks.

(a) The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be arranged so that no day is included in more than one (1) calendar quarter and no day in a one (1) year period is omitted from inclusion within a calendar quarter.

(b) A [No] Licensee or registrant shall not change the method observed of determining calendar quarters, except at the beginning of a calendar year.

(36) "Calibration" means the determination of:
(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or
(b) The strength of a source of radiation relative to a standard.

(37) "Carrier" means is defined at KRS 174.405(1). [A person engaged in the transportation of passengers or property by land or water on a common contract, or private carrier, or by civil aircraft.]

(38) "Cephalometric device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(39) "Certified cabinet x-ray system" means an x-ray system which has been certified under 21 CFR 1010.2 as being manufactured and assembled according to the provisions of 21 CFR 1020.40.

(40) "Certified component [(components)] means a component [(components)] of an x-ray system [(systems which shall be) subject to [regulations promulgated under] 21 CFR Subchapter J.

(41) "Certified system" means an x-ray system which has one (1) or more certified component.

(42) "CFR" means Code of Federal Regulations.

(43) "Changeable filters" means a filter, exclusive of inherent filtration, which can be removed from the useful beam through an electronic, mechanical, or physical process.

(44) "Class," or "lung class" or "inhalation class" [(or lung class or inhalation class)] means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials shall be classified as D, W, or Y, which applies to a range of clearance half-times:
(a) For Class D (Days) of less than ten (10) days;
(b) [and] For Class W (Weeks) from ten (10) to 100 days; and
(c) [and] For Class Y (Years) of greater than 100 days.

(45) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(46) "Collimator" means a device used to limit the size, shape, and
direction of the primary radiation beam.

(47) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(48) "Committed dose equivalent (H_{eff})" means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the fifty (50) year period following the intake.

(49) "Committed effective dose equivalent (H_{eff})" means the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues (H_{eff} = \sum W_{i}H_{i}).

(50) "Computed tomography," or "CT" ([GfP]) means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

(51) "Constraint" or "dose constraint" ([dose constraint]) means a value above which specified licensee actions are required.

(52) "Contact therapy system" means an x-ray system used for therapy with the x-ray tube port placed in contact with or within five (5) centimeters of the surface being treated.

(53) "Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, push buttons, and other hardware necessary for manually setting the technique factors.

(54) "Controlled area" means an area, outside of a restricted area but inside the site boundary, to which access can be limited by the licensee or registrant for a stated reason.

(55) "Cooling curve" means the graphical relationship between heat units stored and cooling time.

(56) "Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(57) "Curie" means a quantity of radioactivity.

(a) One (1) curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7 x 10^10 disintegrations per second (dps).

(b) Commonly used submultiples of the curie are the millicurie and the microm curie.

1. One (1) millicurie (mCi) = 0.001 curie = 3.7 x 10^7 dps

2. One (1) microm curie (uCi) = 0.000001 curie = 3.7 x 10^4 dps

(58) "Dead man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(59) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception.

(60) "Decommissioning" means the:

(a) Safe removal from service of a facility or site;

(b) Termination of license; and

(c) Reduction of residual radioactivity to a level permitting release of the property.

1. For unrestricted use; or

2. Under restricted conditions, to remove, as a facility or site, safely from service and reduce residual radioactivity to a level that permits;

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(62) "Depleted uranium" means the source material--uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total--uranium present. Depleted uranium does not include special nuclear material.

(63) "Derived air concentration-hour" or "DAC-hour" ([DACh]) means the product of the concentration of radioactive material in air, \([A]\) expressed as a fraction or multiple of the derived air concentration for each radionuclide, \([B]\) and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one (1) ALI equivalent to a committed effective dose equivalent of five (5) rem (0.05 Sv).

(64) "Diagnostic clinical procedure manual" means the [a] collection of written procedures, methods, instructions, and precautions that describes each method and other instructions and precautions by which the licensee performs diagnostic clinical procedures, where each diagnostic clinical procedure:

(a) Has been approved by the authorized user; and

(b) Includes the radiopharmaceutical name, dosage, and route of administration.

(65) "Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

(66) "Diagnostic-type protective tube housing" means an x-ray tube housing so constructed that the leakage radiation measured at a distance of one (1) meter from the source cannot exceed 100 millirem per hour if the tube is operated at its maximum continuous rated current for the maximum tube potential.

(67) "Diagnostic x-ray system" means an x-ray system designed for irradiation of a part of the human body for the purpose of diagnosis or visualization.

(68) "Direct scatter radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam. (See also "scattered radiation").

(69) "Disposal" means the disposition of waste as authorized by 902 KAR 100:021.

(70) "Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentrations of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurements technology, survey, and statistical techniques.

(71) "Dose" or "radiation dose" [is a generic term that means];

(a) Absorbed dose;

(b) Dose equivalent;

(c) Effective dose equivalent;

(d) Committed dose equivalent;

(e) Committed effective dose equivalent; or

(f) Total effective dose equivalent.

(72) "Dose commitment" means the total radiation dose to a part of the body that results from "exposure to the body of radioactive material. Estimation assumes [for purposes of estimating the dose commitment; it is assumed that from the time of intake] the period of exposure to retained material to be less than [shall not exceed] fifty (50) years.

(73) "Dose equivalent (H_{eq})" means the product of the absorbed dose in tissue, the quality factor, and other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(74) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(75) "Effective dose equivalent (H_{eq})" means the sum of the products of the dose equivalent to the organ or tissue (H_{eq}) and the weighting factors (W_{i}) applicable to each of the body organs or tissues that are irradiated (H_{eq} = \sum W_{i}H_{eq}).

(76) "Embryo or fetus" means the developing human organism from conception until the time of birth.

(77) "Entrance or access point" means a location through which an individual may gain access to a radiation area [area(s) or [to] individual material, including [an] [mat] [terials. This includes] exit or entry portal [portals] of sufficient size to permit human entry, irrespective of their intended use.

(78) "Entrance exposure rate" means the roentgens per unit time at the point the center of the useful beam enters the patient.

(79) "Exclusive use" [also referred to in other administrative regulations as "sole use" or "full control"], means;

(a) the sole use of a conveyance by a single consignor in which
initial, intermediate, and final loading and unloading are carried out under the direction of the consignor or consignee,
(a) [(b)] The consignor and the carrier shall each [must] ensure that any loading and or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment.
(b) Consignor shall include with the shipping paper information provided to the carrier, specific written instructions for maintenance of exclusive use shipments, [and]
(c) The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipments, and include them with the shipping paper information provided to the carrier by the consignor.

(80) "Exposure" means being exposed to ionizing radiation or to radioactive material.

(81) "Exposure rate" means the exposure per unit of time[; such as roentgen per minute and milliroentgen per hour].

(82) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.

(83) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(84) "Eye dose equivalent". See "lens dose equivalent". [means to the external exposure of the lens of the eye and means the dose equivalent at a tissue depth of three tenths (0.3) centimeter (366 mg/cm²)].

(85) "Facility" means a [the] location at which one (1) or more devices or sources are installed or located within one (1) building, vehicle, or under one (1) roof, [and are] under the same administrative control.

(86) "Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

(87) "Field station" means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

(88) "Filter" means the material in the useful beam which usually absorbs preferentially the less penetrating radiations.

(a) "Inherent filtration" means the filter permanently in the useful beam. It includes the window of the x-ray tube and the permanent tube enclosure.

(b) "Added filter" means the filter added to the inherent filtration.

(c) "Total filter" means the sum of the inherent and added filters.

(89)[a] "Fissile material" means special nuclear material consisting of or containing one (1) or more fissile radionuclides.

(b) Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235.

(c) This does not include unirradiated natural and depleted uranium, and natural or depleted uranium that has been irradiated in thermal reactors only [are not included in this definition]. [Neither natural or depleted uranium is fissile material.]

(d) "Fissile Class II: a package which may be transported in unlimited numbers and in an unspecified arrangement, and which requires no nuclear criticality safety controls during transportation. A transport index is not assigned for purposes of nuclear criticality safety; but may be required because of external radiation levels.

(b) Fissile Class II: a package which may be transported together with other packages in an unspecified arrangement but, for criticality control, in numbers which do not exceed an aggregate transport index of fifty (50). These shipments require no other nuclear criticality safety control during transportation. Individual packages may have a transport index not less than 0.1 and not more than ten (10).

(90) "Fissile material package" means a fissile material packaging together with its fissile material contents.

(91) "Fluoroscopic imaging assembly means a component that [which] comprises a reception system in which x-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks if present, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

(92) "Focal spot" means the area projected on the anode of the x-ray tube by the electrons accelerated from the cathode and from which the useful beam originates.

(93) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(94) "General purpose radiographic x-ray system" means a radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(95) "Generally applicable environmental radiation standards means standards issued by the Environmental Protection Agency (EPA) under the authority of 42 USC sec. 2011 et seq., that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(96) "Generator or "waste generator" [(waste-generator)] means a person who produces or possesses low-level radioactive waste in the course of [or incident to] manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity.

(97) "Gonad shield" means a protective barrier for the testes or ovaries.

(98) "Gray" or "Gy" [(Gy)] means the SI unit of absorbed dose. One (1) gray equals [shall equal to] an absorbed dose of one (1) Joule/kilogram (100 rads).

(99) "Half-value layer" or "HVL" [(HVL)] means the thickness of a specific material which attenuates the beam of radiation [to an extent that the exposure rate is reduced] to one-half (1/2) of its original exposure rate. This excludes [value in this definition] the contribution of scattered radiation, other than that which might be present initially in the beam concerned [shall be deemed to be excluded].

(100) "Healing arts screening" means the testing of human beings using x-ray machines for the detection or evaluation of health indications. If these tests are not specifically and individually ordered by a licensed practitioner of the healing arts, is legal to prescribe these x-ray tests for the purpose of diagnosis or treatment.

(101) "Heat unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes, and seconds [such as kVp x mA x seconds].

(102) "High radiation area" means an area, accessible to individuals, in which radiation levels may result in an individual receiving a dose equivalent in excess of one-tenth (0.1) rem (1 mSv) in one (1) hour at fifty (50) centimeters from the radiation source or from a surface that the radiation penetrates.

(103) "Human use" means the internal or external administration of radiation or radioactive materials to human beings.

(104) "Image intensifier" means a device that [which] converts instantaneously, by means of photoemissive surfaces and electronic circuitry, an x-ray pattern into a light pattern of greater intensity than would have been produced by the original x-ray pattern.

(105) "Image receptor" means a device that [as a fluoroscopic screen or radiographic film which] transforms incident radiation into a visual image or into another form which can be made into a visual image by further transformations.

(106) "Image receptor support" means, for mammographic systems, that part of the system designed to support the image receptor in a horizontal plane during a mammographic examination.

(107) "Indirect" means a "human being.

(108) "Individual monitoring" means the assessment of:

(a) Dose equivalent by the use of an individual monitoring device [devices designed to be worn by an individual];

(b) Committed effective dose equivalent by:

1. Bioassay; or

2. [see bioassay] or by Determination of the time-weighted air concentration to which an individual has been exposed [such as DAS-hem]; or

(c) Dose equivalent by the use of survey data.

(109) "Individual monitoring device or devices [(devices] [individual monitoring equipment]) means a device [devices] designed to be worn by an (an) individual for the assessment of dose equivalent, such as film badges, thermoluminescent dosimeters (TLDs).
pocket ionization chambers, and personal (‘lapel’) air-sampling devices.

(110) “Industrial radiography” means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation.

(111) “Injection tool” means a device used for controlled subsurface injection of radioactive tracer material.

(113) “Inspection” means an examination or observation, such as tests, surveys, and monitoring, to determine compliance with rules, administrative regulations, orders, and requirements of the cabinet.

(114) “Interruption” means a device arranged or connected so that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(112) “Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

(113) “Irradiation” means the exposure of matter to ionizing radiation.

(114) “Kilovolt peak” or “KVP” (keV/µ) means the crest value in kilovolts of the potential difference of a pulsating potential generator. If only one-half (1/2) of the wave is used, the value refers to the useful half of the wave.

(115) “Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(116) “Leakage radiation” means radiation emanating from the diagnostic or therapeutic source assembly, except for the useful beam.

(117) “Leakage technique factor” means, with respect to different tube housing assemblies [factors] means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They shall be defined as follows:

(a) For capacitor energy storage equipment; [the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential, with a charge of energy of exposure of [being] (ten) milliamperes seconds (mAs) or the minimum obtainable from the unit, whichever is larger.

(b) For field emission equipment rated for pulsated operation; [the maximum rated number of x-ray pulses in an hour for operation at the maximum rated peak tube potential.

(c) For all other equipment; [the maximum rated continuous tube current for the maximum rated peak tube potential.

(118) “Lens dose equivalent” or “LDE” ([LDE]) means [applicable to the external exposure of the lens of the eye and is taken as] the dose equivalent, upon external exposure of the lens of the eye, at a tissue depth of 0.3 centimeter (300 mg/cm²).

(119) “License” means a license issued by the cabinet under 902 KAR Chapter 100.

(120) “Licensed material” means radioactive material received, possessed, used, transferred, or disposed under a general or specific license issued by the cabinet [under 902 KAR Chapter 166].

(121) “Licensee” means the holder of a license.

(122) “Limits” or “dose limits” ([dose limits]) means the permissible upper bounds of radiation doses.

(123) “Lixiscope” means a portable light-intensified imaging device using a scintillating screen.

(124) “Logging assistant” means an individual who, under the personal supervision of a logging supervisor;

(a) [Handles sealed sources or tracers that are not in logging tools or shipping containers; or

(b) [Uses survey instruments in well logging activities.

(125) “Logging supervisor” means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

(126) “Logging tool” means a device used subsurface to perform well logging.

(127) “Lost or missing licensed material” means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

(128) “Low-level radioactive waste” means radioactive waste not classified as:

(a) High-level radioactive waste;

(b) [Transuranic waste;

(c) [Spent nuclear fuel; or

(d) By-product material as defined in Section 11e(2) of the Atomic Energy Act of 1954, [42 USC 2014(f)].

(129) “Low specific activity” or “LSA” ([LSA]) means radioactive material with limited specific activity that satisfies the descriptions and limits established in paragraphs (a), (b), and (c) of this subsection [set forth below]. Shielding materials surrounding the LSA material shall not be considered in determining the estimated average specific activity of the package contents. LSA material shall be in one of (1) of (3) groups:

(a) LSA-I:

1. Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or

2. Solid unirradiated natural or depleted uranium or natural thorium or their solids or liquid compounds or mixtures; or

3. Radioactive material, other than fissile material, for which the A, value is unlimited; or

4. Mill tailings, contaminated earth, concrete, rubble, other debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10⁴ A/gram.

(b) LSA-II:

1. Water with tritium concentration up to 20.0 curies/liter (0.8 TBq/L) or

2. Material in which the radioactive material is dispersed throughout, and the average specific activity does not exceed 10⁴ A/gram for solids and gases, and 10⁴ A/gram for liquids.

(c) LSA-III: Solids (e.g., consolidated wastes, activated materials) in which:

1. The radioactive material is distributed throughout a solid or a collection of solid objects; or

2. Is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.); and

3. The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven (7) days, would not exceed 0.1 A, and the average specific activity of the solid does not exceed 2 x 10⁴ A/gram.

[(a) Uranium or thorium ores and physical or chemical concentrates of those ores;

(b) Unirradiated natural or depleted uranium or unirradiated natural thorium;

(c) Tritium oxide in aqueous solutions provided the concentration does not exceed five (5.0) milliequivalents per milliliter or

(d) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents shall not exceed:

1. 0.0001 milliequivalents of radionuclides for which the A, quantity in 992 KAR 106-070 is not more than 0.05 curie;

2. 0.05 milliequivalents of radionuclides for which the A, quantity in 992 KAR 106-070 is more than 0.05 curie, but not more than one (1) curie; or

3. 0.05 milliequivalents of radionuclides for which the A, quantity in 992 KAR 106-070 is more than one (1) curie; or

(e) Objects of nonradioactive material externally contaminated with radioactive material, if the radioactive material is not readily dispersible and the surface contamination, averaged over an area of one (1) square meter, does not exceed 0.0001 milliequivalent (220,000 disintegrations per minute) per square centimeter of radionuclides for which the A, quantity in 992 KAR 106-070 is not more than 0.05 curie; or 0.001 milliequivalents (2,200,000 disintegrations per minute) per square centimeter for other radionuclides.

(130) “Management” means the chief executive officer or that individual's designee.

(131) “Manager” means the chief executive officer or that individual’s designee.

(132) “mAs” means milliampere-second.
"Maximum normal operating pressure" means the maximum gauge pressure that would develop in the containment system in a period of one (1) year under the heat condition specified in 10 CFR Part 71.71(c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

"Medical institution" means an organization in which several medical disciplines are practiced.

"Medical use" means the intentional internal or external administration of radioactive material, or the radiation therefrom, to patients or human research subjects under the supervision of an authorized user.

"Member of the public" means an individual except when the individual is receiving an occupational dose.

"Microscopic analytical x-ray equipment" means a device which utilizes x-rays for examining the microscopic structure of materials. This includes x-ray diffraction and spectrographic equipment.

"Minor" means an individual less than eighteen (18) years of age.

"Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than thirty (30) microcuries of sodium iodide I-125 or I-131:
   1. Involving the wrong patient or human research subject or the wrong radiopharmaceutical; or
   2. If both the administered dosage differs from the prescribed dosage by more than twenty (20) percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceeds thirty (30) microcuries.

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131:
   1. Involving the wrong patient, or human research subject, radiopharmaceutical, or route of administration; or
   2. If the administered dosage differs from the prescribed dosage by more than twenty (20) percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:
   1. Involving the wrong patient, or human research subject, treatment site; or
   2. If the calculated total administered dose differs from the total prescribed dose by more than ten (10) percent [of the total prescribed dose].

(d) A teletherapy radiation dose:
   1. Involving the wrong patient, or human research subject, mode of treatment, or treatment site; or
   2. If the treatment consists of three (3) or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than ten (10) percent [of the total prescribed dose];
   3. If the calculated weekly administered dose is thirty (30) percent greater than the weekly prescribed dose; or
   4. If the calculated total administered dose differs from the total prescribed dose by more than twenty (20) percent [of the total prescribed dose].

(e) A brachytherapy radiation dose:
   1. Involving the wrong patient, or human research subject, radiotrace, or treatment site except for [excluding] permanent implant seeds that were implanted in the correct site but migrated outside the treatment site;]
   2. Involving a sealed source that is leaking;
   3. If, for a temporary implant, one (1) or more sealed sources are not removed upon completion of the procedure; or
   4. If the calculated administered dose differs from the prescribed dose by more than twenty (20) percent [of the prescribed dose].

(f) A diagnostic radiopharmaceutical dosage, other than quantities greater than thirty (30) microcuries of sodium iodide I-125 or I-131:
   1. Involving the wrong patient, or human research subject, radiopharmaceutical, or route of administration, or if the administered dosage differs from the prescribed dosage; and
   2. If the dose to the patient or human research subject exceeds five (5) rem effective dose equivalent or fifty (50) rems dose equivalent to an individual organ.

"Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

"Monitoring," or "radiation monitoring" or "radiation protection monitoring" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

"Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes; that is, [essentially 100 weight percent thorium-232].

"Nonstochastic effect" or "deterministic effect" means a health effect [effects], the severity of which varies with the dose and for which a threshold is believed to exist. [Radiation-induced cataract formation is an example of a nonstochastic effect (also called a deterministic effect).]

"Normal form radioactive material" means radioactive material does not qualify [which has not been demonstrated to qualify] as "special form radioactive material."

"NRC" means the Nuclear Regulatory Commission or its duly authorized representatives.

"Occupational dose" means dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation, whether in the possession of the licensee, registrant, or other person.

"Occlusive equipment" means the packaging together with its radioactive contents as presented for transport.

"Packaging" means the assembly of components necessary to ensure compliance with the requirements of 10 CFR 100.70.

"Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

"Personal supervision" means guidance and instruction by the supervisor who is physically present at the job site and watching the performance of the operation in proximity so that contact can be maintained and immediate assistance given as required.

"Personnel monitoring equipment" means a device designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual; such as film badges, pocket dosimeters, and thermoluminescent dosimeters (TLD).

"phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of
radiation.

(159) "Photometer" means a method for controlling radiation exposures to image receptors by the amount of radiation which reaches a radiation monitoring device. The radiation monitoring device is part of an electronic circuit which controls the duration of time the tube is activated. [1 See "automatic exposure control"].

(160) "Physician" is defined at KRS 311.720(9).

(161) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual dose limits.

(162) "Position indicating device" means a device on dental x-ray equipment used to indicate the beam position and to establish a defined source-to-film distance (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(163) "Preregistration" means a person who is preregistered with the cabinet for the intent of obtaining a radiation producing machine registerable under 902 KAR 100:110.

(164) "Preregistration" means preregistration with the cabinet as specified in 902 KAR 100:110.

(165) "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

(a) in a written directive;

(b) in the diagnostic clinical procedures manual; or

(c) in an appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(166) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive; or

(c) For brachytherapy, the total source strength and exposure time or the total dose, as documented in the written directive.

(167) "Primary dose monitoring system" means a system that:

(a) [which] Monitors the useful beam during irradiation; and

(b) [which] Terminates irradiation if a preselected number of dose is exceeded.

(168) "Principal activities" means activities authorized by the license which are essential to achieving the purpose for which the license was issued or amended. "Principal activities" do not include:

(a) Storage during which no licensed material is accessed for use or disposal;

(b) Activities incidental to decontamination or decommisioning of research activities.

(169) "Protective apron" means an apron made of radiation absorbing materials of at least 0.25 mm lead equivalency; that is, [-This requirement may be assumed to have been met if the HVL of the apron is not less than 0.25 mm lead at normal operating voltages.]

(170) "Protective barrier" means a barrier of radiation absorbing material used to reduce radiation exposure.

(a) "Primary protective barrier" means a barrier sufficient to attenuate the unfiltered beam to the required degree.

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(171) "Protective glove" means a glove made of radiation absorbing materials of at least 0.25 mm lead equivalency; that is, [-This requirement may be assumed to have been met if the HVL of the glove is not less than 0.25 mm lead at normal operating voltages.]

(172) "Public dose" means the dose received by a member of the public from sources of radiation licensed or registered operations. It shall not include radiation received:

(a) As an occupational dose;

(b) [or doses received] From background radiation;

(c) As a medical patient;

(d) From voluntary participation in a medical research program; or

(e) From exposure to an individual individual's administered radioactive material and released in accordance with 902 KAR 100:073, Section 25.

(173) "Qualified expert" means an individual who has demonstrated to the satisfaction of the cabinet that he possesses the knowledge and training to:

(a) Measure ionizing radiation;

(b) Evaluate safety techniques; and

(c) Advise regarding radiation protection needs.

(174) "Quality factor" or "Q" [97] means the modifying factor that is used to derive dose equivalent from absorbed dose.

(a) Quality factors and absorbed dose equivalences:

<table>
<thead>
<tr>
<th>Type of Radiation</th>
<th>Quality Factor (Q)</th>
<th>Absorbed Dose Equal to a Unit Dose Equivalent*</th>
</tr>
</thead>
<tbody>
<tr>
<td>X-, gamma, or beta radiation</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge</td>
<td>20</td>
<td>0.05</td>
</tr>
<tr>
<td>Neutrons of unknown energy</td>
<td>10</td>
<td>0.1</td>
</tr>
<tr>
<td>High-energy protons</td>
<td>10</td>
<td>0.1</td>
</tr>
</tbody>
</table>

*Absorbed dose in rad equal to one (1) rem or the absorbed dose in gray equal to one (1) sievert.

(b) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rads per hour or sieverts per hour, as provided in paragraph (a) of this subsection, one (1) rem (0.01 sievert) of neutron radiation of unknown energies may, for purposes of the regulations in this part, be assumed to result from a total fluence of twenty-five (25) million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee may use the fluence rate per unit dose equivalent or the appropriate Q value from paragraph (c) of this subsection to convert a measured tissue dose in rads to dose equivalent in rads.

(c) Mean quality factors, Q, and fluency per unit dose equivalent for monoenergetic neutrons:

<table>
<thead>
<tr>
<th>Neutron Energy (MeV)</th>
<th>Quality Factor (Q)</th>
<th>Fluency per Unit Dose Equivalent* (neutrons cm² rem⁻¹)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(thermal)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.5 x 10⁻⁴</td>
<td>2</td>
<td>980 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻⁴</td>
<td>2</td>
<td>980 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻³</td>
<td>2</td>
<td>810 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻²</td>
<td>2</td>
<td>840 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻¹</td>
<td>2</td>
<td>980 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻⁰</td>
<td>2.5</td>
<td>1010 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻⁰</td>
<td>7.5</td>
<td>170 x 10⁻⁴</td>
</tr>
<tr>
<td>5 x 10⁻¹</td>
<td>11</td>
<td>39 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻⁰</td>
<td>11</td>
<td>27 x 10⁻⁴</td>
</tr>
<tr>
<td>2.5</td>
<td>9</td>
<td>29 x 10⁻⁴</td>
</tr>
<tr>
<td>5</td>
<td>8</td>
<td>23 x 10⁻⁴</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
<td>24 x 10⁻⁴</td>
</tr>
<tr>
<td>10</td>
<td>6.5</td>
<td>24 x 10⁻⁴</td>
</tr>
<tr>
<td>14</td>
<td>7.5</td>
<td>17 x 10⁻⁴</td>
</tr>
<tr>
<td>20</td>
<td>8</td>
<td>16 x 10⁻⁴</td>
</tr>
<tr>
<td>40</td>
<td>7</td>
<td>14 x 10⁻⁴</td>
</tr>
<tr>
<td>60</td>
<td>5.5</td>
<td>16 x 10⁻⁴</td>
</tr>
<tr>
<td>1 x 10⁻⁰</td>
<td>4</td>
<td>20 x 10⁻⁴</td>
</tr>
<tr>
<td>2 x 10⁻⁰</td>
<td>3.5</td>
<td>19 x 10⁻⁴</td>
</tr>
<tr>
<td>3 x 10⁻⁰</td>
<td>3.5</td>
<td>16 x 10⁻⁴</td>
</tr>
<tr>
<td>4 x 10⁻⁰</td>
<td>3.5</td>
<td>14 x 10⁻⁴</td>
</tr>
</tbody>
</table>

Value of quality factor (Q) at the point at which the dose equivalent is maximum in a thirty (30)-cm diameter cylinder tissue-equivalent phantom.

Monoenergetic neutrons incident normally on a thirty (30)-cm diameter cylinder tissue-equivalent phantom.

(175) "Quarter" is defined at KRS 341.080(1)(b). [means a period of time equal to one-fourth (0.25) of the year observed by the licensee (approximately thirteen (13) consecutive weeks); providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.]

(176) "Rad" means the special unit of absorbed dose. One (1) rad equals an absorbed dose of 0.01 joule per kilogram (0.01 gray) or 100
ergs per gram.

(177) "Radiation" means ionizing radiation, 
(a) It [which] includes the following:
1. Gamma rays;
2. X-rays;
3. Alpha particles;
4. Beta particles;
5. High-speed electrons;
6. Neutrons;
7. High-speed protons; and
8. Other atomic particles capable of producing ions.
(b) It excludes [This definition shall not include] nonionizing radiations, such as:
1. Sound;
2. Microwaves;
3. Radiowaves; or
4. Visible, infrared, or ultraviolet light.
(c) The following are specific forms of radiation:
1. (ae) "Leakage radiation" means radiation coming from within the tube or source housing except the useful beam.
2. (b) "Scattered radiation" means radiation that, during passage through matter, has been deviated in direction, and may [–it may also] have been modified by a decrease in energy.
3. (c) "Useful radiation" or "primary beam" means radiation which passes through the window, aperture, cone, or other beam limiting device of the tube or source housing. [Sometimes called "primary beam"].
4. (d) "Stray radiation" means the sum of leakage and scattered radiation.
(178) "Radiation area" means an area, accessible to individuals, in which there exists radiation at levels that an individual may receive in excess of five (5) millirads (0.05 mSv) in one (1) hour at thirty (30) centimeters from the radiation source or from a surface that the radiation penetrates.
(179) "Radiation machine" means a device capable of producing radiation, except a device that produces [devices which produce] radiation only from radioactive material.
(180) "Radiation safety officer" means an individual [one] who has the knowledge and responsibility to apply appropriate radiation protection administrative regulations.
(181) "Radiation therapy simulation system" means a fluoroscopic or radiographic x-ray system intended for: 
(a) Localizing the volume to be exposed during radiation therapy; and
(b) Confirming the position and size of the therapeutic irradiation field.
(182) "Radioactive marker" means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.
(183) "Radioactive material" means a solid, liquid, or gas, which emits radiation spontaneously.
(184) "Radioactivity" means the disintegration of unstable atomic nuclei by the emission of radiation.
(185) "Radiograph" means an image receptor on which the image is created directly or indirectly by an x-ray pattern and results in a permanent record.
(186) "Radiographer" means an individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of [these] administrative regulations and license conditions.
(187) "Radiographer's assistant" means an individual who, under the personal supervision of a radiographer, uses sources of radiation, related handling tools, or survey instruments in industrial radiography.
(188) "Radiographer instructor" means a radiographer who has been authorized by the cabinet to provide on-the-job training to radiographer trainees under 902 KAR 100:100, Section 11(1).
(189) "Radiographer trainee" means an individual who, under the personal supervision of a radiographer instructor, uses sources of radiation, related handling tools, or radiation survey instruments during the course of instruction.
(190) "Radiographic exposure device" means an instrument con-
(204) "Respiratory protective device" means an apparatus used to reduce an [the] individual's intake of airborne radioactive materials;[ such as a respirator].

(205) "Restricted area" means an area access to which is limited by the licensee or registrant for purposes of protection of individuals against undue risks from exposure to radiation and radioactive materials. A restricted area shall not include areas used as residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

(206) "Roentgen" or "R" means the special unit of exposure. One (1) roentgen (R) equals 2.58 x 10^-10 coulombs per kilogram of air. (I See "Exposure")

(207) "Sanitary sewerage" means a system of public sewers for carrying off waste, water, and refuse, but excludes sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensees.

(208) "Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent leakage or escape of the radioactive material.

(209) "Secondary dose monitoring system" means a system which terminates irradiation upon failure of the primary system.

[[214] "Secretary" means the Secretary of the Cabinet for Human Resources.]

(210) "Shallow-dose equivalent (H)," with respect to [means the] external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (seven (7) mg/cm²) averaged over an area of one (1) square centimeter.

(211) "Shielded position" means the location within the radiographic exposure device or storage container which, by manufacturer's design, is the proper location for storage of the sealed source.

(212) "Shielded-room radiography" means industrial radiography conducted in a room shielded so that radiation levels at any location on the outer perimeter meet the limitations specified in 92 codes 100:019, Section 10.

(213) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(214) "Sievem" means:

(a) The International System (SI) unit of quantities expressed as dose equivalent. The dose equivalent in sievens is equal to the absorbed dose in grays multiplied by the quality factor (1 Sv=100 rems).

(b) See the table in the definition of "quality factors" for [As used in this administrative regulation:] the quality factors to convert [for converting] absorbed dose to dose equivalent [as shown in the table listed in subsection 164 of this section].

(215) "Site area emergency" means the existence of situation where an event [events] may occur. Is [are] in progress, or has [have] occurred that may:

(a) [would] Lead to a significant release of radioactive material; and

(b) [that-could] Require a response by an off-site response organization [organizations] to protect persons off site.

(216) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(217) "Source" means the local spot of the x-ray tube.

(218) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those source changers also used for transporting and storage of sealed sources.

(219) "Source holder" means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source.

(220) "Source image receptor distance" or "SID" ([6/10]) means the distance from the source to the center of the input surface of the image receptor.

(221) "Source material" means:

(a) Uranium or thorium, or a combination thereof, in a physical or chemical form;

(b) Ores which contain by weight one-twentieth (1/20) of one (1) percent (0.05 percent) or more of:

1. Uranium;

2. Thorium; or

3. A combination of uranium and thorium [Combination therefor].

(c) Source material does not include special nuclear material.

(222) "Source of radiation" means a radioactive material or device, or equipment emitting or capable of producing radiation.

(223) "Special form" means radioactive material which satisfies the following conditions:

(a) It is a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one (1) dimension not less than five (5) millimeters (0.197 inch); and

(c) It satisfies the test requirements specified by the [U.S. Nuclear Regulatory Commission (NRC)]. A special form encapsulation designed under the NRC requirements in effect on June 30, 1983, and constructed prior to July 1, 1985 may continue to be used. A special form encapsulation designed or constructed after June 30, 1985 shall meet requirements of this definition applicable if it is designed or constructed.

(224) "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope U-233 or in the isotope U-235, and other material which the Governor declares by order to be special nuclear material after the United States Nuclear Regulatory Commission, or successor thereto, has determined the material to be special nuclear material, but does not include source material;

(b) Material artificially enriched by one (1) of the foregoing, but does not include source material.

(225) "Special nuclear material in quantities not sufficient to form a critical mass" means:

(a) Uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235;

(b) U-233 in quantities not exceeding 200 grams;

(c) Plutonium in quantities not exceeding 200 grams; or

(d) A combination of them as specified by the following formula:

\[
\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1
\]

(226) "Special purpose x-ray system" means a radiographic x-ray system which, by design, is limited to radiographic examination of a specific anatomical region.

(227) "Specific activity" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(228) "Spot check" means a procedure which is performed to assure that a previous calibration continues to be valid.

(229) "Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(230) "Spot-film device" means a device intended to transport or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(231) "SSD" means the distance between the source and the skin of the patient.

(232) "Stochastic effect [effects]" means a health effect [effects] that occurs [occur] randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose plus [with] threshold factors [such as hereditary effects and cancer incidence].

(233) "Storage" or "waste storage" [(waste storage)] means the holding of waste for treatment or disposal for a period of twenty-four (24) hours or more.
(234) "Storage area" means:
(a) A location, facility, or vehicle [which is] used to store, transport, or secure a laboratory equipment, as [a] storage container, or [a] sealed source if the source is in use;
and
(b) Which is locked or has a physical barrier to prevent accidental exposure, tampering with, or unauthorized removal of the device, container, or source.

(235) "Storage container" means a device in which a sealed source is transported or stored.

(236) "Stray radiation" means the sum of leakage and scattered radiation.

(237) "Subsurface tracer study" means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the real world or adjacent formation.

(238) "Surface contaminated object" or "SCO" [6604] means a solid object that is not itself classified as radioactive material, but which has radioactive material distributed on a surface [any of its surfaces]. SCO must be one of two groups with surface activity not exceeding the following limits:
(a) SCO-I: A solid object on which:
1. The nonfixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 10⁷ microcuries/cm² (4 Bq/cm²) for beta and gamma and low toxicity alpha emitters, or 10³ microcuries/cm² (0.4 Bq/cm²) for all other alpha emitters;
2. The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 1.0 microcurie/cm² (4x10⁹ Bq/cm²) for beta and gamma and low toxicity alpha emitters, or 0.1 microcurie/cm² (4x10⁸ Bq/cm²) for all other alpha emitters; and
3. The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 1 microcurie/cm² (4x10⁹ Bq/cm²) for beta and gamma and low toxicity alpha emitters, or 0.1 microcurie/cm² (4x10⁸ Bq/cm²) for all other alpha emitters.
(b) SCO-II: A solid object on which the limits for SCO-I are exceeded and on which:
1. The nonfixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 10⁷ microcuries/cm² (400 Bq/cm²) for beta and gamma and low toxicity alpha emitters or 10³ microcuries/cm² (40 Bq/cm²) for all other alpha emitters;
2. The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 20 microcuries/cm² (8x10⁷ Bq/cm²) for beta and gamma and low toxicity alpha emitters, or 2 microcuries/cm² (8x10⁶ Bq/cm²) for all other alpha emitters; and
3. The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 20 microcuries/cm² (8x10⁷ Bq/cm²) for beta and gamma and low toxicity alpha emitters, or 2 microcuries/cm² (8x10⁶ Bq/cm²) for all other alpha emitters.

(239) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. If appropriate, the evaluation shall include at least:
(a) [a minimum of] A physical survey of the location of sources of radiation; and
(b) Measurements or calculations of levels of radiation or concentrations of radioactive material present.

(240) "Technique factors" means the conditions of operation. They are specified as follows:
(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;
(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.
(c) For CT x-ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mAs, x-ray pulse width in seconds, and the number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and the number of x-ray pulses in mAs;
(d) For CT x-ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mAs and scan time in seconds, or the product of tube current and exposure time in mAs and the scan time if the scan time and exposure time are equivalent; and
(e) For other equipment, peak tube potential in kV and tube current in mAs and exposure time in seconds or the product of tube current and exposure time in mAs.

(241) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(242) "Teletherapy physician" means the individual identified as the teletherapy physician on a cabinet license.

(243) "Temporary job site" means a location to which radioactive material has been dispatched to perform a job, operation, or study other than the location listed in a specific license or certificate of registration.

(244) "Termination of irradiation" means the stopping of irradiation in a fashion which does not permit discontinuance of irradiation without the resetting of operating conditions at the control panel.

(245) "Tests" means the process of verifying compliance with an applicable regulation.

(246) "Therapeutic-type protective tube housing" means:
(a) For x-ray therapy equipment not capable of operating at 500 kVp or above:[the following definition applies]: an x-ray tube housing so constructed that the leakage radiation at a distance of one (1) meter from the target does not exceed one (1) roentgen in one (1) hour if the tube is operated at its maximum rated tube potential;
(b) For x-ray therapy equipment capable of operating at 500 kVp or above:[the following definition applies]: an x-ray tube housing so constructed that the leakage radiation at a distance of one (1) meter from the target does not exceed one-tenth (0.1) percent of the useful beam exposure rate at one (1) meter from the target, for its operating conditions;
(c) Small areas of reduced protection are acceptable providing the average reading over a 100 square centimeter area at one (1) meter distance from the target does not exceed the values given above.

(247) "Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

(248) "Total effective dose equivalent" or "TEDE" [TEDE²] means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(249) "Traceable to a national standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one (1) or more intermediate steps and that comparisons have been documented.

(250) "Transport container" means a package that is designed to provide radiation safety and security if sealed sources are transported and which meets the requirements of the 49 CFR 173, Subpart I.

(251) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined as follows:
(a) For non fissile material packages, the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at one (1) meter (3.3 feet) from the external surface by 100 (equivalent to the maximum radiation level in millirem per hour at one (1) meter (3.3 feet)); or
(b) For fissile material packages, the number determined by multiplying the maximum radiation level in millisievert per hour at one (1) meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one (1) meter (3.3 feet), or, for categorically control purposes, the number obtained as described in 10 CFR Part 71.69, whichever is larger; the number expressing the maximum radiation level in millirem per hour at one (1) meter from the external surface of the package.

(252) "Treatment" or "waste treatment" [waste treatment] means a method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics or composition of a waste in order to render it safe for transport, storage, or disposal, amendable to recovery, convertible to another usable material, or reduced in volume.

(253) "Tube" means an x-ray tube, unless otherwise specified.

(254) "Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and other appropriate elements if they are contained within the tube housing.
"Tube rating chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

"Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed $A$, for special form radioactive material or $A$, for normal form radioactive material, where $A$ and $A$ are given in 902 KAR 100:070, Section 21, or may be determined by procedures described in 902 KAR 100:070, Section 20.

"Type B package" means a Type B packaging together with its radioactive contents. On approval a Type B package design is designated by NRC as (B(U)) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lb/in$^2$) or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in 10 CFR Part 71.73 (hypothetical accident conditions), in which case it will receive a designation (B(M) or (B(M)). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to U.S. Department of Transportation regulations in 49 CFR Part 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in 902 KAR 100:070, Section 6 [7].

"Type B packaging" means a packaging designed to retain the integrity of containment and shielding required by U.S. Nuclear Regulatory Commission regulations if subjected to the normal conditions of transport and hypothetical accident test conditions established [set forth] in 10 CFR Part 71.

"Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

"U.S. Department of Energy" means the Department of Energy established by 42 USC 7101 et seq., to the extent that the department exercises functions formerly vested in the U.S. Atomic Energy Commission, its chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator therefor and retransferred to the Secretary of Energy in 42 USC 7151, effective October 1, 1977.

"Unrefined and unprocessed ore" means ore in its natural form prior to processing, such as grinding, roasting, beneficiating, or refining.

"Unrestricted area" means an area access to which is not controlled or limited by the licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive material.

"Uranium - natural, depleted, enriched" means:

(a) "Natural uranium" means uranium with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent $^{235}$U, 0.007 weight percent $^{234}$U, and the remainder $^{238}$U), and is the remainder weight essentially uranium-238;

(b) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes;

(c) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

"Uranium fuel cycle" means the operations of milling of uranium ore, chemical conversion of uranium, isotopic enrichment of uranium, fabrication of uranium fuel, generation of electricity by a light-water-cooled nuclear power plant using uranium fuel, and reprocessing of spent uranium fuel to the extent that these activities directly support the production of electrical power for public use. Uranium fuel cycle shall not include mining operations, operations at waste disposal sites, transportation of radioactive material in support of these operations, and the reuse of recovered nonuranium special nuclear and byproduct materials from the cycle.

"Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam limiting device if the exposure switch or timer is activated.

"User" means an individual who personally utilizes or manipulates a source of radiation.

"Variable-aperture beam limiting device" means a beam limiting device which has capacity for stepless adjustment of the x-ray field size at a given SID.

"Vendor" means [for the purposes of 902-KAR-100-116] a person who sells [for-profit] radiation producing machines or accelerators registerable with the cabinet as specified by 902 KAR 100:110.

"Vendor registrant" means a vendor who is registered with the cabinet.

"Vendor registration" means registration of a vendor with the cabinet described by 902 KAR 100:110.

"Very high radiation area" means an area, accessible to individuals, in which radiation levels may result in an individual receiving an absorbed dose in excess of 500 rads (five (5) grays) in one (1) hour at one (1) meter from a radiation source or from a surface that the radiation penetrates. At very high doses received at high dose rates, units of absorbed dose (such as rads and grays) are inappropriate, rather than units of dose equivalent (such as rems and sieverts).

"Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons are producing a visible image.

"Visiting authorized nuclear pharmacist" means a nuclear pharmacist who is not identified on the license of the licensee being visited.

"Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

"Waste", [if] See "low-level radioactive waste".

"Wedge filter" means an added filter effecting continuous progressive attenuation on the useful beam or a part thereof.

"Week" means seven (7) consecutive days starting on Sunday.

"Weighting factor ($W_\lambda$)" for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects if the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of ($W_\lambda$) are:

<table>
<thead>
<tr>
<th>Organ</th>
<th>$W_\lambda$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organ or tissue</td>
<td></td>
</tr>
<tr>
<td>Gonads</td>
<td>0.25</td>
</tr>
<tr>
<td>Breast</td>
<td>0.15</td>
</tr>
<tr>
<td>Red bone marrow</td>
<td>0.12</td>
</tr>
<tr>
<td>Lung</td>
<td>0.12</td>
</tr>
<tr>
<td>Thyroid</td>
<td>0.03</td>
</tr>
<tr>
<td>Bone surfaces</td>
<td>0.03</td>
</tr>
<tr>
<td>Remainder</td>
<td>0.30</td>
</tr>
<tr>
<td>Whole Body</td>
<td>1.00</td>
</tr>
</tbody>
</table>

0.30 results from 0.08 for each of five (5) "remainder" organs (excluding the skin and the lens of the eye) that receive the highest doses.

For the purpose of weighting the external whole body dose (for adding to the internal dose), a single weighting factor, $W_\lambda=1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until a time as specific guidance is issued.

"Well-bore" means a drilled hole in which wire line service operations and subsurface tracer studies are performed.

"Well-logging" means the lowering and raising of measuring devices or tools which may contain sources of radiation in well-bores or cavities for the purpose of obtaining information about the well or adjacent formations.

"Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

"Wire line" means a cable containing one (1) or more electrical conductors which is used to lower and raise logging tools in the well-bore.

"Wire line service operation" means an evaluation or mechanical service which is performed in the well-bore using devices on a wire line.

"Worker" means an individual engaged in activities licensed or registered by the cabinet and controlled by a licensee or registrant, but does not include the licensee or registrant.

"Working level" or "WL" ([WL]) means a combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in one (1) liter of air that results in the ultimate emission of 1.3x10^6 MeV of potential alpha particle energy.
"Working level month" or "WLM" (IVWLM) means an exposure to one (1) working level for 170 hours (2,000 working hours per year/12 months per year = approximately 170 hours per month).

"Written directive" means an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in paragraph (f) of this subsection, and containing the following information:

(a) For an administration of quantities greater than thirty (30) microcuries of iodine 125 or 131: the dosage;
(b) For a therapeutic administration of a radiopharmaceutical other than iodine 125 or 131: the radiopharmaceutical, dosage, and route of administration;
(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;
(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;
(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or
(f) For all other brachytherapy:
   1. Prior to implementation: the radioisotope, number of sources, and their strengths; and
   2. After implantation, but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

"X-ray control" means a device which controls input power to the x-ray high-voltage generator or the x-ray tube. It includes timers, photometers, automatic brightness stabilizers, and similar devices which control the technique factors of an x-ray exposure.

"X-ray equipment" means an x-ray system, subsystem, or component thereof. X-ray equipment is further classified [may be used] as:

(a) "Mobile" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.
(b) "Portable" means x-ray equipment designed to be hand-carried.
(c) "Stationary" means x-ray equipment which is installed in a fixed location.
(d) "Transportable" means x-ray equipment installed in a vehicle or trailer.

"X-ray field" means that area of the intersection of the useful beam and one (1) of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth (1/4) of the maximum in the intersection.

"X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube, high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray subsystem" means a combination of two (2) or more components of an x-ray system.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes [minimally] an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and [the] necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

"X-ray tube" means an electron tube [which is] designed to be used primarily for the production of x-rays.

"Year" means the period of time, beginning in January, used to determine compliance with the provisions of 902 KAR Chapter 100. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant:

(a) [provided] The change is made at the beginning of the year; and
(b) A [that-no] day is not omitted or duplicated in consecutive years.

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 Public Health Protection and Safety
(As Amended at ARRS, August 1, 2000)

902 KAR 100:040. General provisions for specific licenses.

RELATES TO: KRS 189(170) 211.842 to 211.852, 211.900(4), 10 CFR 30.31 to 30.51, 30.34 to 30.41, 30.50, 30.51, 30.31, 11 USC 101(2), (14)

STATUTORY AUTHORITY: KRS [Chapter 189], 13B 170, 134A 050, 211.090(3), 211.84[4], 10 CFR 30.31, 30.32, 30.34, 30.36, 30.37, 30.38, 30.41, 30.50, 30.51, 30.61 [EO 96-866]

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-866, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.] KRS 211.844 authorizes the Cabinet for Health Services to promulgate administrative regulations for regulating and licensing the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation establishes [provides] general provisions for the issuance of radioactive material licenses to possess, use, or [and] transfer radioactive material within Kentucky.

Section 1. License Requirement. Except for persons exempted by 902 KAR 100:015 and 902 KAR 100:045, a person shall not manufacture, produce, receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a specific or general license issued in accordance with 902 KAR Chapter 100. Authority to transfer possession or control by the manufacturer, processor, or producer of equipment, devices or commodity, or other products containing radioactive material whose subsequent possession, use, transfer and disposal by other persons are exempted from regulatory requirements, may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Section 2. Types of Licenses. (1) Licenses for radioactive material shall be of two (2) types:

(a) General; and
(b) Specific.

(2) Except as specified in 902 KAR 100:050, general licenses shall be:

(a) Effective without the filing of an application with the cabinet or the issuance of licensing documents to the licensee; and
(b) Subject to other applicable requirements of 902 KAR Chapter 100 and limitations of 902 KAR 100:050.

(3) Specific licenses shall require:

(a) The submission of an application to the cabinet; and
(b) The issuance of a licensing document by the cabinet.

(4) The license shall be subject to applicable requirements of 902 KAR Chapter 100 and to limitations specified in the licensing document.

Section 3. Filing of Application for a Specific License. (1) An application for "specific license" shall be filed with the Cabinet for Health Services on "Form RPS-7, [incorporated by reference. The form may be obtained from the cabinet at 275 East Main Street, Frankfort, Kentucky 40621, between 8 a.m. and 4:30 p.m. Monday through Friday.]

(2)(a) The cabinet may at a time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the cabinet to determine whether:

1. The application shall be granted or denied; or
2. A license shall be modified or revoked.

(b) Prelicensing visits may be made to the applicant's facility for the purpose of obtaining information in addition to that furnished in the original application.

RICE C. LEACH, Commissioner
JOHN WALKER, Attorney

- 793 -
(c) If the applicant or licensee fails to respond to a request, in writing, forwarded by certified mail, for additional information within thirty (30) days of the date of the receipt of the request, or within another specified time if health and safety are threatened, the cabinet shall [may] suspend, modify or revoke the license in accordance with 902 KAR 100:170, or shall deny the application.

(3) The application shall be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

(4) An application for a license may include a request for a license authorizing one (1) or more activities if the application specifies the additional activities and complies with the provisions of 902 KAR Chapter 100 relating to specific licenses.

(b) The applicant may incorporate in the application, by reference, information contained in previous applications, statements, or reports filed with the cabinet, if references are clear and specific.

(b) Information provided to the cabinet by an applicant or [for a license or by an] licensee, or information required to be maintained by statute, or by 902 KAR Chapter 100, cabinet orders, or license conditions, shall be complete and accurate in all aspects.

(5) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source shall:

(a) Identify the source or device by manufacture and model number as registered with:

1. The cabinet;
2. The U.S. Nuclear Regulatory Commission; or
3. An agreement state; or
(b) Contain the information identified in 902 KAR 100:058, Section 1.

(7) An application for a specific license [Applications for specific licenses filed pursuant to this administrative regulation] shall contain, if required by the administrative regulation referenced:

(a) A proposed decommissioning funding plan; or
(b) A certification of financial assurance for decommissioning in accordance with 902 KAR 100:042; and
(c) An emergency plan for responding to a release in accordance with 902 KAR 100:041.

Section 4. General Requirements for the Issuance of a Specific License. (1) A license application shall be approved if the cabinet determines:

(a) The applicant is qualified by reason of training and experience to use the radioactive material in question for the purpose requested, in accordance with 902 KAR Chapter 100, and in a manner as to minimize danger to public health and safety or property;

(b) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;

(c) The issuance of the license will not be adverse to the health and safety of the public; and

(d) The applicant satisfies applicable special requirements in 902 KAR Chapter 100.

(2) For an application for a license to receive and possess radioactive material which the cabinet determines will significantly affect the quality of the environment, the following shall apply:

(a) The secretary of the cabinet or his designee shall, before commencement of construction of the plant or facility in which the activity is to be conducted, weigh the environmental, economic, technical, and other benefits against environmental costs and shall consider available alternatives, if [a] the cabinet determines that the activity is significant to the environment.

(b) The cabinet may, where appropriate, approve a license or a Hearing conducted by procedures designed to protect environmental values.

(c) Commencement of construction prior to cabinet [the] determination shall be on the basis of the evidence presented, appropriate conditions to protect environmental values; and

(d) Commencement of construction prior to cabinet [the] determination shall be on the basis of the evidence presented, appropriate conditions to protect environmental values.

2. The term "commencement of construction" means clearing of land, excavation, or other substantial action that would adversely affects the environment of a site.

2. The term shall not mean site exploration, necessary roads for site exploration, boring to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

3(a) The license shall notify the cabinet in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under a chapter of Title 11 [bankruptcy] of the United States Code by or against:

1. The licensee;
2. An entity, [as that term is defined in 11 USC 101(14),] controlling the licensee [or listing the license or licensee as property of the estate; or]
3. An affiliate, [as that term is defined in 11 USC 101(2),] of the licensee.

(b) The [This] notification shall indicate:

1. The bankruptcy court in which the petition for bankruptcy was filed; and
2. The date of the filing of the petition.

4(a) Information provided to the cabinet by an applicant for a license or by a licensee or information required by 902 KAR Chapter 100, orders or license conditions to be maintained by the applicant or licensee shall be complete and accurate in all material aspects.

Section 5. Issuance of Specific Licenses. (1) Upon a determination that an application meets the requirements of KRS 211.842 to 211.852 and 902 KAR Chapter 100, the cabinet shall [may] issue a specific license authorizing the proposed activity in a form containing conditions and limitations the cabinet [as it] deems appropriate or necessary.

(2) The cabinet may incorporate in a license issued, or thereafter by appropriate rule, 902 KAR Chapter 100, or order, or as otherwise specified in Section 13 of this administrative regulation, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material subject to 902 KAR Chapter 100 as it deems appropriate or necessary in order to:

(a) Minimize danger to public health and safety or property;
(b) Require reports and the keeping of records, and provide for inspections of activities under the license as may be appropriate or necessary; and
(c) Prevent loss or theft of licensed material.

Section 6. Specific Terms and Conditions of Licenses. (1) A license issued pursuant to this administrative regulation shall be subject to the provisions of KRS 211.842 to 211.852, 902 KAR Chapter 100, and orders of the cabinet.

(2) Neither the license nor a right under the license shall be assigned, transferred, or otherwise transferred in violation of the provisions of KRS 211.842 to 211.852.

(3) A person licensed by the cabinet under 902 KAR Chapter 100 shall be licensed under 902 KAR Chapter 100 shall be licensed to receive and possess the radioactive material or [material(s)] licensed to the locations and purposes authorized in the license.

Section 7. Expiration and Termination of Licenses. (1) Except as specified in subsection (4) of this section and in Section 6(2) of this administrative regulation, a specific license shall expire at midnight on the day, in the month and year stated in the license. [Except as specified in subsection (9) of this section and in Section 6(2) of this administrative regulation, a specific license shall expire at midnight on the day, in the month and year stated in the license.]

(2) A licensee shall notify the cabinet promptly, in writing, and request termination of the license if the licensee decides to terminate activities involving materials authorized under the license. This notification and request for termination of the license shall include:

(a) The reports and information specified in subsection (3)(d) and (e) of this section; and
(b) A plan for completion of decommissioning, if required, by 902 KAR 100:042 (subsections(4) of this section) or by license condition.

(3) If a license does not submit an application for license renewal under Section 6(2) of this administrative regulation, the licensees, on or before the expiration date specified in the license, shall:

(a) Terminate use of radioactive material;
(b) Remove radioactive contamination to the extent practicable except for those procedures covered by subsection (4) of this section; 
(c) Properly dispose of radioactive material; 
(d) File the "Disposition of Radioactive Material", "Form RPS-10", with the Cabinet for Health Services. The form may be obtained from the cabinet at 275 East Main Street, Frankfort, Kentucky 40621, between 8:30 a.m. and 4:30 p.m., Monday through Friday, or as otherwise authorized by the cabinet.

(2) Records required by 902 KAR 100:019, Section 31(2)(d), 
(i) If licensed activities are transferred or assigned in accordance with 902 KAR 100:040, Section 6, a licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the cabinet: 
1. Records of disposal of radioactive material made pursuant to 902 KAR 100:021, Sections 3 through 6, including materials authorized before January 28, 1981; and 
2. Records required by 902 KAR 100:019, Section 31(2)(d).

(ii) If licensed activities are transferred or assigned in accordance with 902 KAR 100:040, Section 6, a licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee.

The new licensee will be responsible for maintaining these records until the license is terminated: 
1. Records of disposal of licensed material made pursuant to 902 KAR 100:021, Sections 3 through 6 of this administrative regulation, including materials authorized before January 28, 1981; and 
2. Records required by 902 KAR 100:042, Section 15(7), to the cabinet. 
Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the result of this survey, unless the licensee demonstrates that the premises are suitable for license to an authorized agent in accordance with the following requirements: 
1. Submit within twelve (12) months of the occurrence of events in paragraphs (a) and (b) of this subsection: 
2. Submit within twelve (12) months of notification; as required in paragraphs (a) and (b) of this section, a decommissioning plan, if required by subsection (4) of this section.
amended and the grounds for the amendment.
(2) Every five (5) years or at the request of the cabinet, the licen-
see shall be required to amend the license in its entirety by submitting
a complete application.

Section 10. Cabinet Action on Applications to Renew or Amend. In
considering an application by a licensee to renew or amend its li-
cense, the cabinet shall apply the requirements of 902 KAR Chapter 100.

Section 11. Inalienability of Licenses. A license issued or granted
under 902 KAR Chapter 100 or right to possess or utilize radioactive
material granted by a license issued under 902 KAR Chapter 100 shall not
be transferred, assigned, or otherwise disposed of, through trans-
fer of control of a license to a person unless the cabinet, after securing
full information, finds that the transfer is in accordance with the re-
quirements of 902 KAR Chapter 100 and gives its consent in writing.

Section 12. Transfer of Material. (1) A licensee shall not transfer
radioactive material except as authorized by this administrative regu-
lation.
(2) Except as stated in the license and subject to the provisions of
subsections (3) and (4) of this section, a licensee may transfer radio-
active material subject to the acceptance of the transferee to a person:
(a) Exempt from the requirements for a license as specified in this
administrative regulation to the extent permitted under the exemption;
(b) Authorized to receive radioactive material under terms of a
general license as specified in 902 KAR 100:050, or its equivalent, or
a specific license or equivalent licensing document issued by the
licensee, the U.S. Nuclear Regulatory Commission, or an Agreement
State;
(c) Otherwise authorized to receive radioactive material by the
federal government or an agency thereof, the cabinet, or an Agree-
ment State; or
(d) As otherwise authorized by the cabinet in writing.
(3) Before transferring radioactive material to a specific licensee of
the cabinet, U.S. Nuclear Regulatory Commission, or an Agreement
State or to a general licensee who is required to register with the cabi-
et, U.S. Nuclear Regulatory Commission, or an Agreement State
prior to receipt of the radioactive material, the licensee transferring
the material shall verify that the transferee's license authorizes the receipt
of the type, form, and quantity of radioactive material to be transferred.
(4) The following methods for the verification required by this ad-
ministrative regulation shall be [see] acceptable:
(a) The transferee may have in his possession, and read, a current
copy of the transferee's specific license or registration certificate;
(b) The transferee may have in his possession a written certificate
by the transferee that he is authorized by license or registration certifi-
cate to receive the type, form, and quantity of radioactive material
to be transferred, specifying the license or registration certificate number,
issuing agency and expiration date;
(c) For emergency shipments, the transferee may accept oral
certification by the transferee that the transferee is authorized by li-
cense or registration certificate to receive the type, form, and quantity
of radioactive material to be transferred, specifying the license or reg-
istration certificate number, issuing agency, and expiration date, [c] if
the oral certification is confirmed in writing within ten (10) days;
(d) The transferee may obtain other sources of information com-
piled by a reporting service from official records of the cabinet, the
U.S. Nuclear Regulatory Commission, or the licensing agency of an
Agreement State as to the identity of licensees and the scope and
expiration dates of licenses and registration; or
(e) [If [When] none of the methods of verification described in
paragraphs (a) through (d) of this subsection are readily available or if
[when] a transferee desires to verify that information received by one
(1) of the [such] methods is correct or up-to-date, the transferee may
obtain and record confirmation from the cabinet, U.S. Nuclear Regu-
latory Commission, or the licensing agency of an Agreement State
that the transferee is licensed to receive the radioactive material.
(5) Shipment and transport of radioactive material shall meet the
requirements of 902 KAR Chapter 100.

Section 13. Modification, Revocation, and Suspension of Li-
censes. (1) The terms and conditions of a license shall be subject to
amendment, revision, or modification, or the license may be sus-
pended or revoked by reason of amendments to or violation of KRS
211.842 to 211.852, 502 KAR Chapter 100, or orders issued by the
cabinet.
(2) A licensee may be revoked, suspended, or modified, in whole or
in part, for:
(a) A material false statement in the application or in a statement of
fact required under provisions of KRS 211.842 to 211.852;
(b) A condition [Conditions] revealed by application or statement of
fact;
(c) A report, record, or inspection, or other means which would
warrant the cabinet to refuse to grant a license on an original applica-
tion;
(d) A violation of, or failure to observe the terms and conditions of
KRS 211.842 to 211.852, or of the license, or of rules, 902 KAR
Chapter 100, or orders of the cabinet.
(3) Except in a case [cases] of willful violation or [those] in which
the public health, interest, or safety requires otherwise, a license shall
not be modified, suspended, or revoked unless, prior to the institution
of proceedings:
(a) A fact [Facts] or conduct which may warrant cabinet [the]
action shall have been called to the attention of the licensee, in writing;
and
(b) The licensee shall have been accorded an opportunity to de-
monstrate or achieve compliance with lawful requirements.
(4) A licensee whose license is suspended or revoked, shall have
a right to a hearing in a manner established [set forth] in 902 KAR
1:400.

Section 14. Retention of Records. (1) A person who receives
radioactive material in accordance with a license issued under 902
KAR Chapter 100 shall keep records showing the receipt, transfer,
and disposal of radioactive material.
(2) [Records] are required by KRS 902 KAR Chapter 100. A license
shall be maintained as long as the licensee retains possession of the
radioactive material and for two (2) years following transfer or disposal
of the radioactive material.
(b) Records of transfer of radioactive material shall be maintained
by the licensee who transferred the material for five (5) years after
the transfer.
(c) Records of disposal of radioactive material shall be maintained
in accordance with 902 KAR 100:021.
(3) Records are required by 902 KAR Chapter 100 or by a li-
cense condition shall be maintained for the period specified in 902
KAR Chapter 100. If the retention period is not specified by 902 KAR
Chapter 100 or a license condition, the records shall be permanently
maintained unless the cabinet authorizes their disposition upon proper
application for their destruction.
(4) Records required to be maintained by 902 KAR Chapter 100
may be:
(a) The original, a reproduced copy or a microform if duly authen-
ticated by authorized personnel and capable of producing a clear and
legible copy after storage for the period specified by 902 KAR Chapter
100; or
(b) in electronic media with the capability for producing legible,
accurate, and complete records during the required retention period.
(5) Records, including [such as] letters, drawings, and specifi-
cations, shall include pertinent authentication information, such as
stamps, initials, or [and] signatures. The licensee shall maintain ade-
quate safeguards against tampering with, and loss of, records.

Section 15. [Financial Assurance and Recordskeeping for DeCom-
misssioning. (1)(e) An applicant for a specific license authorizing the
possession and use of unsealed radioactive material, except source
material, with a half-life greater than 180 days and quantities exceed-
ing 1000 times the applicable quantities set forth in 902 KAR
100:030. Section 1 shall submit a decommissioning funding plan as
described in subsection (5) of this section. The decommissioning
funding plan shall also be submitted if a combination of isotopes is
involved if an activity divided by 100 is greater than one (1) i.e., unity rule;
where R is defined as the sum of the ratio of the quantity of each
isotope to the applicable value in 902 KAR 100:030; Section 1.
(b) An applicant for a specific license authorizing the possession and use of more than 100 milliliters of source material in a readily dispersible form shall submit a decommissioning funding plan as described in subsection (5) of this section;

(c) An applicant for a specific license authorizing possession and use of quantities of source material greater than ten (10) milliliters but less than or equal to 100 milliliters in a readily dispersible form shall either:

1. Submit a decommissioning funding plan as described in subsection (5) of this section; or

2. Submit a certification that financial assurance for decommissioning has been provided in the amount of $150,000 using one (1) of the methods described in subsection (6) of this section. For an applicant, this certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but prior to the receipt of radioactive material. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of subsection (6) of this section shall be submitted to the cabinet.

(2) An applicant for a specific license authorizing possession and use of radioactive material, except source material and sealed special nuclear material sources, with a half-life greater than 120 days and in quantities specified in subsection (4) of this section shall either:

(a) Submit a decommissioning funding plan as described in subsection (5) of this section; or

(b) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by subsection (4) of this section using one (1) of the methods described in subsection (6) of this section. For an applicant, this certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but prior to the receipt of radioactive material. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of subsection (6) of this section shall be submitted to the cabinet.

(3)(a) A holder of a specific license issued on or after January 1, 1995, which is of a type described in subsection (1) or (2) of this section, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this section:

(b) A holder of a specific license issued before January 1, 1995, and of a type described in subsection (1)(a) or (b) of this section shall submit, on or before January 1, 1995, a decommissioning funding plan or a certification of financial assurance for decommissioning in an amount at least equal to $750,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in an application for renewal of the license or in any renewal application.

(c) A holder of a specific license issued before January 1, 1995, and of a type described in subsection (1)(c) or (2) of this section shall submit, on or before January 1, 1995, a certification of financial assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth in this section:

(4) Table of required amounts of financial assurance for decommissioning by quantity of material:

(a) Greater than 10E4 but less than or equal to 10E5 times the applicable quantities of 902-KAR 100:030: Section 1, in unsealed form: For a combination of isotopes, if R, as defined in subsection (1) of this section divided by 10E4 is greater than one (1) but R divided by 10E6 is less than or equal to one (1) $750,000.

(b) Greater than 10E3 but less than or equal to 10E4 times the applicable quantities of 902-KAR 100:030: Section 1, in unsealed form: For a combination of isotopes, if R, as defined in subsection (1) of this section, divided by 10E3 is greater than one (1) but R divided by 10E4 is less than or equal to one (1) $150,000.

(c) Greater than 10E10 times the applicable quantities of 902-KAR 100:030: Section 1, in sealed sources or plated foils other than sealed special nuclear material sources. For a combination of isotopes, if R, as defined in subsection (1) of this section, divided by 10E10 is greater than one (1) $750,000.

(d) A decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of ensuring funds for decommissioning from subsection (6) of this section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility:

(e) Financial assurance for decommissioning shall be provided by:

(a) A prepayment deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets so that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities;

(b) A surety method, insurance, or other guarantee method.

1. If the licensee defaults, these methods guarantee that decommissioning costs shall be paid.

2. A surety method may be in the form of a surety bond, letter of credit, or line of credit.

3. A parent-company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Section 16 of this administrative regulation.

4. A parent-company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section.

5. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are conducted pursuant to Section 17 of this administrative regulation.

6. A guarantee by the applicant or licensee shall not be used in combination with other financial methods to satisfy the requirements of this section, or in a situation where the applicant or licensee has a parent-company holding majority control of the voting stock of the company.

7. Surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions:

(a) The surety method or insurance shall be open-ended, or, if written for a specified term, such as five (5) years, shall be renewed automatically unless ninety (90) days or more prior to the renewal date, the issuer notifies the cabinet, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance shall also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the cabinet within thirty (30) days after receipt of notice of cancellation.

(b) The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the cabinet. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(c) The surety method or insurance shall remain in effect until the cabinet has terminated the license.

(d) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund:

1. An external sinking fund shall be a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds shall be sufficient to pay decommissioning costs at the time termination of operation is expected.

2. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

3. The surety or insurance provisions shall be as stated in paragraph (b) of this subsection:

(d) In the case of a state, or local government licensee, a statement of intent containing a cost estimate for decommissioning or an amount based on the table in subsection (4) of this section, and indicating that funds for decommissioning shall be obtained when necessary:

(e) A person licensed under this administrative regulation shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the cabinet. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information in the cabinet considers important to decommissioning consists of:

(f) Records of spills or other unusual occurrences involving the
spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after cleanup procedures or if there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials like concrete. These records shall include known information on identification of involved nuclides, quantities, forms and concentrations.

(b) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, relevant documents need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(c) A list of the following, contained in a single document and updated every two (2) years, except for areas containing only sealed sources, provided the sources have not leaked or no contamination remains after a leak, or radioactive materials having half-lives of less than sixty-five (65) days:

1. Areas designated and formerly designated restricted areas as defined in 10CFR 100.910, Section 1.100. For requirements prior to January 26, 1994, see 10CFR 100.910, Section 1.110 contained in the 1992 edition of 10CFR Chapter 100 of the Kentucky Administrative Regulations No. 22, 1990;
2. Areas outside of restricted areas that require documentation pursuant to paragraph (a) of this subsection;
3. Areas outside of restricted areas where current and previous wastes have been buried as documented under 10CFR 100.921, Section 1.11;
4. Areas outside of restricted areas which contain radioactive materials that, if licensee expired, the license shall be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10CFR 100.921, Section 2;
5. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

Section 16: Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning. An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds shall be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This section establishes criteria for passing the financial test and for obtaining the parent company guarantee.

(1) Financial test. To pass the financial test, the parent company shall meet the criteria of either paragraph (a) or (b) of this subsection:

(a) The parent company shall have:
- Two (2) of the following three (3) ratios: A ratio of total liabilities to net worth less than two (2); or a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than one (1); and a ratio of current assets to current liabilities greater than one and one-half (1.5); and
- Net working capital and tangible net worth at least six (6) times the current decommissioning cost estimates (or prescribed amount if a certification is used); and
- Tangible net worth of at least $10 million; and
- Assets located in the United States amounting to at least ninety (90) percent of total assets or at least six (6) times the current decommissioning cost estimates (or prescribed amount if certification is used);

(b) The parent company shall have:
- A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, or Ba as issued by Moody's; and
- Tangible net worth at least six (6) times the current decommissioning cost estimate (or prescribed amount if a certification is used); and
- Tangible net worth of at least $10 million; and
- Assets located in the United States amounting to at least ninety (90) percent of total assets or at least six (6) times the current decommissioning cost estimate (or prescribed amount if certification is used); and

(c) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in the financial statement. In connection with that procedure the licensee shall inform the cabinet of any audit report that the auditor's attention which cause the auditor to believe that the data specified in the financial test shall be adjusted and that the company no longer passes the test.

(2) Parent company guarantee. The terms of a parent company guarantee which an applicant or licensee obtains shall provide that:

(a) The parent company guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the cabinet. Cancellation shall not occur, however, until the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the cabinet as evidenced by the return receipt;

(b) If the license fails to provide alternative financial assurance as specified in this administrative regulation within ninety (90) days after receipt by the licensee and the cabinet of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor shall provide alternative financial assurance in the name of the licensee;

(c) The parent company guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license.

Section 17: Criteria Relating to Use of Financial Test and Self-guarantees for Providing Reasonable Assurance of Funds for Decommissioning. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of subsection (4) of this section.

(2) The terms of self-guarantees are in subsection (7) of this section.

(3) This section establishes criteria for passing the financial test for the self-guarantees and establishes the terms for self-guarantees.

(4) To pass the financial test, a company shall meet the following criteria:

(a) Tangible net worth at least ten (10) times the current decommissioning cost estimate, or the current amount required if certification is used; for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent guarantor;

(b) Assets located in the United States amounting to at least ninety (90) percent of total assets or at least ten (10) times the current decommissioning cost estimate, or the current amount required if certification is used, for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent guarantor;

(c) A current rating for its most recent bond issuance of AAA, AA or A as issued by the Standard and Poor's, or Aaa, Aa, or A as issued by Moody's;

(5) To pass the financial test, a company shall meet the following additional criteria:
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(a) The company has at least one (1) class of equity securities registered under the Securities Exchange Act of 1934;
(b) The company's independent certified public accountant has compared the data used by the company in the financial test which is derived from the independently audited, year end financial statements for the latest fiscal year with the amounts in the financial statement;
(c) In connection with the procedure in subsection (5)(b) of this section, the licensee provides the cabinet within ninety (90) days of matters coming to the attention of the auditor that cause the auditor to believe:
1. The data specified in the financial test needs to be adjusted;
2. The company no longer passes the test; and
(d) After the initial financial test, the company repeats passage of the test within ninety (90) days after the close of each succeeding fiscal year.
(e) If the licensee no longer meets the requirements of subsection (4) of this section, the licensee shall provide immediate notice to the cabinet of its intent to establish alternate financial assurance as specified this administrative regulation within 120 days of the notice;
(f) The terms of self-guarantee which an applicant or licensee furnish shall provide that:
(a) The guarantee remains in effect unless the licensee provides notices of cancellation by certified mail to the Manager, Radiation Control Branch, 275 East Main Street, Frankfort, Kentucky 40624.
(b) Gencell shall not occur; however, during the 120 days beginning on the date of receipt of the notice of cancellation by the cabinet, as evidenced by the receipt;
(c) Alternative financial assurance as specified in this administrative regulation shall be provided within ninety (90) days following receipt by the cabinet of notice of cancellation of the guarantee;
(d) The guarantee and financial test provisions remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been in effect by the licensee;
(e) The licensee promptly forwards to the cabinet and the licensee's independent auditor reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of Section 13 of the Securities and Exchange Act of 1934;
(f) Further, if the licensee's most recent bond issuance ceases to be rated in a category of "A" or above by both Standard and Poor's or Moody's, the licensee shall provide notice in writing of the fact to the cabinet within twenty (20) days after publication of the change by the rating service. If the licensee's most recent bond issuance ceases to be rated in a category of "A" or above by both Standard and Poor's or Moody's, the licensee no longer meets the requirements of subsection (4) of this section.
(i) The applicant or licensee shall provide to the cabinet a written guarantee, a written commitment by a corporate officer, which states the license shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the license shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

Section 16: Reporting Requirements. (1) Immediate report. A licensee shall [directly] notify the Cabinet for Health Services, Radiation Protection and Toxic Agents [Control] Branch, as soon as possible, but not later than four (4) hours, after the discovery of an event that prevents or overcomes immediate protective actions necessary to avoid exposure to radiation or radioactive materials or a release of radioactive materials that may [could] exceed regulatory limits. An event includes a fire, explosion, or These events may include fires, explosions, and toxic gas release.
(2) Twenty-four (24) hour report. A licensee shall notify the Cabinet for Health Services, Radiation Control Branch within twenty-four (24) hours after the discovery of an event [the following events] involving radioactive material, as follows:
(a) An unplanned contamination event that:
1. Requires access to the contaminated area, by workers or the public, to be restricted for more than twenty-four (24) hours by imposing additional radiological controls or by prohibiting entry into the area;
2. Involves a quantity of material greater than five (5) times the lowest annual limit on intake specified in 902 KAR 100:019, Section 44, for the material; and
3. Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than twenty-four (24) hours to decay prior to decontamination.
(b) An event in which equipment is disabled or fails to function as designed if:
1. The equipment is required by regulation or license condition to prevent a release [releases] exceeding regulatory limits, to prevent an exposure [exposures] to radiation or [and] radioactive material exceeding regulatory limits, or to mitigate the consequences of an accident;
2. The equipment is required to be available and operable if it is disabled or fails to function; and
3. Redundant equipment is not available and operable to perform the required safety function.
(c) An event that requires unplanned medical treatment, at a medical facility, of an individual with spreadable radioactive contamination on the individual's clothing or body.
(d) An unplanned fire or explosion damaging radioactive material or a device, container, or equipment containing radioactive material if:
1. The quantity of material involved is greater than five (5) times the lowest annual limit on intake specified in 902 KAR 100:019, Section 44, for the radioactive material; and
2. The damage affects the integrity of the radioactive material or its container.
(3) Reports by licensees in response to the requirements of this section shall be made as follows:
(a) Licensees shall [be required to] make reports required by subsections (1) and (2) of this section by telephone to the Cabinet for Health Services, Radiation Protection and Toxic Agents [Control] Branch at (502) 564-3700 from 8 a.m. to 5 p.m. Monday through Friday, and at (502) 564-7815 [6945] at other hours. To the extent that the information is available at the time of notification, the information provided in these reports shall include:
1. The caller's name and phone number;
2. A description of the event, including date and time;
3. The exact location of the event;
4. The isotopes, quantities, and chemical and physical form of the radioactive material involved; and
5. Available personnel and radiation exposure data.
(b) A licensee who makes a telephone report [required by subsections (1) and (2) of the section] shall submit a written follow-up report within thirty (30) days of the initial report. A written report [Written reports] prepared pursuant to another administrative regulation of 902 KAR Chapter 100 may be submitted to fulfill this requirement, if the report contains [reports contain] the necessary information and the appropriate distribution is made. The report [These written reports] shall be sent to the Manager, Radiation Protection and Toxic Agents [Control] Branch, 275 East Main Street, Mall Stop HS 25-E, Frankfort, Kentucky, 40621. The report shall include the following:
1. A description of the event, including the probable cause and the manufacturer and model number, if applicable, of equipment that failed or malfunctioned;
2. The exact location of the event;
3. The isotopes, quantities, and chemical and physical form of the radioactive material involved;
4. Date and time of the event;
5. Corrective actions taken or planned and results of evaluations or assessments; and
6. The extent of every exposure of every individual [exposures of individuals] to radiation or to a radioactive material, [materials] without identification of any individual [individuals] by name.

Section 16: Material Incorporated by Reference. (1) The following forms are incorporated by reference:
(a) Cabinet for Health Services Form RPS-7 "Application for Radioactive Material License";
(b) Cabinet for Health Services Form RPS-10 "Disposal of Radioactive Material".
(c) This material may be inspected, copied, or obtained, subject to applicable copyright law, [The forms in subsection (1) of this]
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

902 KAR 100:041. Quantities of radioactive materials requiring consideration of the need for an emergency plan.

RELATES TO: KRS [138A:170] 211.842 to 211.852, 211.990(4), 10 CFR 30.32, 30.72, 42 USC 11001

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844 authorizes the Cabinet for Health Services [Human Resources] to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation, and the handling and disposal of radioactive waste. This administrative regulation establishes [provides] requirements for emergency plans for responding to a release of radioactive material or waste, and shall apply to a person, applicant, or licensee required to submit an emergency plan.

Section 1. General Requirements. A license application to possess, or a license authorizing the possession of, radioactive materials in unsealed form, on foils or plated sources, or sealed in glass, in excess of the quantities established in Section 4(1) of this administrative regulation shall contain:

1. An evaluation showing the maximum dose to a person off site due to a release of radioactive materials would [shall] not exceed one (1) rem effective dose equivalent or five (5) rems to the thyroid; or
2. An emergency plan for responding to a release of radioactive material.

Section 2. Factors Supporting an Evaluation. One (1) or more of the following factors may be used to support an evaluation submitted pursuant to Section 1(1) of this administrative regulation:

1. The radioactive material is physically separated so that only a portion may be involved in an accident.
2. The radioactive material, or part of the radioactive material, would [shall] not be subject to release during an accident because of the material’s storage or packaging.
3. The release fraction in the respirable size range may be lower than the release fraction shown in Section 4(1) of this administrative regulation, due to the chemical or physical form of the material.
4. The solubility of the radioactive material may reduce the dose received.
5. Facility design or engineered safety features in the facility may cause the release fraction to be lower than the limits established in Section 4(1) of this administrative regulation.
6. Operating restrictions or procedures may prevent a release fraction as large as that shown in Section 4(1) of this administrative regulation.
7. Other relevant factors, as determined by the cabinet, may affect the evaluation appropriate for the specific facility [as determined by the cabinet].

Section 3. Emergency Plan Information. (1) An emergency plan for responding to a release of radioactive material submitted pursuant to Section 1(2) of this administrative regulation shall include:

a. Facility description. A brief description of the licensee’s facility and area near the site.

b. Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

c. Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

d. Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

e. Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on site, and the program for maintaining the equipment.

f. Assessment of a release [releases]. A brief description of the methods and equipment to assess releases of radioactive materials.

(g) Responsibilities. A brief description of the responsibilities of license personnel if an accident occurs, including identification of personnel responsible for promptly notifying off site response organizations and the Radiation Health and Toxic Agents [Control] Branch, and responsibilities for developing, maintaining, and updating the plan.

(h) Notification and coordination. A brief description of the means to promptly notify off site response organizations and request off site assistance, including medical assistance for the treatment of contaminated or injured on site workers, if appropriate.

1. A control point shall be established.

2. Unavailability of personnel, parts of a facility, and equipment shall not exempt the licensee from notification and coordination requirements.

3. The licensee shall notify:

   a. [the] appropriate off site response organizations immediately after the licensee declares an emergency; and

   b. The Radiation Health and Toxic Agents [Control] Branch within one (1) hour.

i. Information to be communicated. A brief description of the types of information [on facility status, radioactive releases, and recommended protective actions] [if necessary] to be given to off site response organizations and the Radiation Health and Toxic Agents [Control] Branch, including:

   1. Facility status;
   2. Radioactive releases and;
   3. Recommended protective action, if necessary.

j. Training. A brief description of the frequency, performance objectives, and licensee’s plan for training workers to respond to an emergency, including special instructions and orientation tours offered by licensee to fire, police, medical, and other emergency personnel. Training shall:

   1. Familiarize personnel with site-specific emergency procedures; and

   2. Thoroughly prepare site personnel for responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for the scenarios.

   k. Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

l. Exercises.

   1. A provision for conducting quarterly communication checks with off site response organizations, and biennial on site exercises to test response to simulated emergencies.

   a. Quarterly communication checks with off site response organizations shall include the check and update of necessary telephone numbers.

   b. The licensee shall invite off site response organizations to participate in the biennial exercises. Participation of off site response organizations in biennial exercises, although recommended, is not required.

   2. Exercises shall use accident scenarios postulated as most probable for the specific site, and the scenarios shall not be known to most exercise participants.

   3. The licensee shall critique each exercise using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response.

   4. Deficiencies found by the critiques shall be corrected.

m. Hazardous chemicals. A certification stating the applicant has met responsibilities pursuant to 42 USC 11001, Emergency Planning and Community Right-to-Know Act of 1986, if applicable to the applicant’s activities at the proposed place of use of the radioactive mate-
Section 4. Quantities of Radioactive Materials. (1) The following table establishes (provides) the quantities of radioactive materials requiring consideration of the need for an emergency plan for a release:

<table>
<thead>
<tr>
<th>Radioactive Material</th>
<th>Release fraction</th>
<th>Quantity (curies)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actinium-228</td>
<td>0.001</td>
<td>4,000</td>
</tr>
<tr>
<td>Americium-241</td>
<td>.001</td>
<td>2</td>
</tr>
<tr>
<td>Americium-242</td>
<td>.001</td>
<td>2</td>
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<tr>
<td>Americium-243</td>
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<td>Antimony-124</td>
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<td>Barium-140</td>
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<td>Bismuth-207</td>
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<td>5,000</td>
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<td>.01</td>
<td>80</td>
</tr>
<tr>
<td>Calcium-45</td>
<td>.01</td>
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</tr>
<tr>
<td>Californium-252</td>
<td>.001</td>
<td>9(20 mg)</td>
</tr>
<tr>
<td>Carbon-14 Non CO</td>
<td>.01</td>
<td>50,000</td>
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<tr>
<td>Cerium-141</td>
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<td>.01</td>
<td>300</td>
</tr>
<tr>
<td>Cesium-134</td>
<td>.01</td>
<td>2,000</td>
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<tr>
<td>Cesium-137</td>
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<td>3,000</td>
</tr>
<tr>
<td>Chlorine-36</td>
<td>.01</td>
<td>100</td>
</tr>
<tr>
<td>Chromium-51</td>
<td>.01</td>
<td>300,000</td>
</tr>
<tr>
<td>Cobalt-60</td>
<td>.001</td>
<td>5,000</td>
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<td>Copper-64</td>
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</tr>
<tr>
<td>Curium-244</td>
<td>.001</td>
<td>2</td>
</tr>
<tr>
<td>Euromplum-152</td>
<td>.01</td>
<td>500</td>
</tr>
<tr>
<td>Euromplum-154</td>
<td>.01</td>
<td>400</td>
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<tr>
<td>Euromplum-155</td>
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<td>Germanium-68</td>
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<td>Holmium166m</td>
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<tr>
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<td>Iodine-125</td>
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<td>Iodine-131</td>
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<td>10</td>
</tr>
<tr>
<td>Indium-114m</td>
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<tr>
<td>Iridium-192</td>
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<tr>
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<td>.5</td>
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<td>Phosphorus-33</td>
<td>.5</td>
<td>1,000</td>
</tr>
<tr>
<td>Potassium-32</td>
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<tr>
<td>Potassium-42</td>
<td>.01</td>
<td>9,000</td>
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<tr>
<td>Promethium-145</td>
<td>.01</td>
<td>4,000</td>
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<td>Promethium-147</td>
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<td>Ruthenium-106</td>
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<td>Samarium-151</td>
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<td>Silver-110m</td>
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<td>Sodium-22</td>
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<td>Sodium-24</td>
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<td>Sulfur-35</td>
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<td>900</td>
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<td>Technetium-99</td>
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<tr>
<td>Yttrium-91</td>
<td>.01</td>
<td>2,000</td>
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</tr>
<tr>
<td>Zirconium-95</td>
<td>.01</td>
<td>5,000</td>
</tr>
<tr>
<td>Other beta-gamma emitter</td>
<td>.01</td>
<td>10,000</td>
</tr>
<tr>
<td>Mixed corrosion products</td>
<td>.01</td>
<td>10,000</td>
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<td>Mixed fission products</td>
<td>.01</td>
<td>1,000</td>
</tr>
<tr>
<td>Contaminated equipment</td>
<td>beta gamma</td>
<td>.001</td>
</tr>
<tr>
<td>Irradiated material, forms other than solid noncombustible</td>
<td>.01</td>
<td>1,000</td>
</tr>
<tr>
<td>Irradiated material, solid non-combustible</td>
<td>.001</td>
<td>10,000</td>
</tr>
<tr>
<td>Mixed radioactive waste, beta-gamma</td>
<td>.01</td>
<td>1,000</td>
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<td>.001</td>
<td>2</td>
</tr>
<tr>
<td>Contaminated equipment, alpha</td>
<td>.0001</td>
<td>20</td>
</tr>
<tr>
<td>Packaged waste, alpha</td>
<td>.001</td>
<td>2</td>
</tr>
</tbody>
</table>

(2) For a combination (combinations) of radioactive materials, consideration of the need for an emergency plan shall be required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in subsection (1) of this section exceeds one (1).

(3) Waste packaged in Type B containers shall not require an emergency plan.

RICE C. LEACH, 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 Public Health Protection and Safety
(As Amended at ARR, August 1, 2000)

902 KAR 100:042. Decommissioning and financial surety.

RELATES TO: KRS [108-170] 211.842 to 211.852, 211.990(4),
10 CFR 20.1401 through 20.1406, 30 Appendices A to [through] E,
30.35, 30.36, 40.36, 70.25, 15 USC Chapter 2B, 78m
STATUTORY AUTHORITY: KRS 138.170, 194A.050, 211.090(3), 211.844[10-GFR-20-146]-through-211.1456; 93 Appendices A through E; 90.35 and 90.46; 40.36; 70.25
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is mandated by KRS 211.844 to regulate the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation establishes [request for] requirements for decommissioning and financial assurance [requirement]s of radioactive material licensees.

Section 1. General Provisions and Scope. (1) The criteria in this administrative regulation shall apply to the decommissioning and financial assurance requirements of a facility [facilities] licensed under KRS 902 KAR 100:040, 902 KAR 100:022, as well as other facilities subject to the cabinet's jurisdiction under KRS 211.842 to 211.852. For a low-level waste disposal facility licensed under facility [facilities], the criteria for decommissioning apply only to an ancillary surface facility [facilities] that supports [support] radioactive waste disposal activities.

(2) The criteria in this administrative regulation shall [do] not apply to a site [sites] which has:
   a. [Have] [Been decommissioned prior to the effective date of this administrative regulation;[3]
   b. [Have] previously submitted and received cabinet approval on a license termination [plan-ETP] or decommissioning plan prior to the effective date of this administrative regulation; or

(3) After a site has been decommissioned and the license terminated in accordance with the criteria in this administrative regulation, the cabinet shall require additional cleanup (only) if, based on new information, it determines that necessary [the criteria of this administrative regulation] were not met and residual radioactivity [remaining] at the site may [could] result in significant threat to public health and safety.

(4) When calculating TEDE (total--effective--dose--equivalent [TEDE]) to the average member of the critical group, the licensee shall determine the peak annual TEDE dose expected within the first 1000 years after decommissioning.

Section 2. Radiological Criteria for Unrestricted Use. (1) A site shall be considered acceptable for unrestricted use if:
   a. The residual radioactivity that is distinguishable from background radiation results in a TEDE to the average member of the critical group that does not exceed twenty-five (25) millirems [mrem] (0.25 mSv) per year, including radioactive [that] from groundwater sources of drinking water and
   b. [(and)] The residual radioactivity has been reduced to ALARA levels [that are as low as reasonably achievable (ALARA)]

(2) Determination of ALARA [the] levels--[which are ALARA] shall take into account every foreseeable potential detriment that may [consideration of detriments; such as deaths from transportation accidents, expected to potentially result from decontamination and waste disposal.

Section 3. Criteria for License Termination Under Restricted Conditions. The cabinet shall terminate a license under restricted conditions if one (1) or more of the following circumstances exist at the site: [A site shall be considered acceptable for license termination-under restricted conditions if:

   (1) The licensee demonstrates that further reductions in residual radioactivity necessary to comply with the provisions of] Section 2 of this administrative regulation:
   a. May result in net public or environmental harm; or
   b. [were not being made] because the residual levels associated with restricted conditions are ALARA. Determination of ALARA [the] levels [which are ALARA] shall take into account every foreseeable potential detriment that may [consideration of detriments; such as traffic accidents, expected to potentially result from decontamination and waste disposal.]

[The licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group] will [shall] not exceed twenty-five (25) mrem (0.25 mSv) per year.

[The licensees have provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for necessary control and maintenance of the site. Acceptable financial assurance mechanisms are:
   a. Funds placed into an account segregated from the licensees' assets and outside the licensees' administrative control, as described in Section 15(2)(a) of this administrative regulation;
   b. Surety method, insurance, or other guarantee method, as described in Section 15(2)(b) of this administrative regulation;
   c. [For a statement of intent in the case of] a statement of intent for federal, state, or local government licensees, a statement of intent for licensees as described in Section 15(2)(d) of this administrative regulation; or
   d. For licensees] a governmental entity [as assuming custody and ownership of a site, an arrangement [that is] deemed acceptable by the governmental entity.

(4) The licensees have submitted a decommissioning [plan] or license termination plan [ETP] to the cabinet indicating the licensees' intent to decommission in accordance with Section 14(1) of this administrative regulation, and specifying that the licensee intends to decommission by restricting use of the site. The licensees shall document in the [ETP] the advice of potentially-affected individuals and institutions in the community [who may be affected by the decommissioning] has been sought, analyzed, and incorporated, as appropriate; following analysis of that advice.

(a) A licensee [licensees] proposing to decommission by restricting use of the site shall seek advice from potentially-affected parties, as follows [regarding the following matters concerning the proposed decommissioning]:
   1. If [Whether provisions are] institutional controls proposed by the licensee;
   a. Provides [Shall provide] reasonable assurance that the TEDE from residual radioactive distinguishable from background to the average member of the critical group will [shall] not exceed twenty-five (25) mrem (0.25 mSv) TEDE per year;
   b. Are [Shall be] enforceable; and
   c. Will [Shall] not impose undue burdens on the local community or other affected parties.
   2. If [whether] the licensees have provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for necessary control and maintenance of the site;
   (b) In seeking advice on the issues identified in paragraph (a) of this subsection, the licensees shall provide for:
   1. Participation by representatives of a broad cross section of potentially-affected community interests [who may be affected by the decommissioning];
   2. An opportunity for a comprehensive, collective discussion on the issues by the participants [represented]; and
   3. A publicly available summary of the results of the discussions, including a description of the participants' [individual viewpoints of the participants on the issues] and the extent of agreement and disagreement among the participants [on the issues]; and
   4. Residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactive distinguishable from background to the average member of the critical group is ALARA, [as low as reasonably achievable] and shall not exceed [either]:
   (a) 100 mrem (1 mSv) per year; or
   (b) 500 mrem (5 mSv) per year, if [provided] the licensees:
   1. Demonstrates that further reductions in residual radioactivity necessary to comply with the [100-mrem/year (1-mSv)] value in (a) subsection (5)(a) of this section are not technically achievable, are prohibitively expensive, or may result in net public or environmental harm;
   2. Makes provisions for durable institutional controls; and
   3. Provides sufficient financial assurance to enable a responsible
government entity or independent third party, including a government- 
entity coordinating body, or a [government entity or an independent 
third party, including a government-entity coordinating body, or a] 
3. Carry out periodic rechecks of the site at least [no less frequently than] every five (5) years to assure that the institutional 
controls remain in place as necessary to meet the criteria established in 
subsection (2) of this section; and 
4. [Assume and carry out responsibilities for necessary control and 
maintenance of the institutional [those] controls. Acceptable 
financial assurance mechanisms are those in subsection (3) of this 
section.]

Section 4. Alternate Criteria for License Termination. (1) The cabinet 
may terminate a license using alternate criteria greater than the 
dose criteria established in Sections 2 and 3(2) or (4)(a)(1)(a) of this 
administrative regulation, if the licensee:
(a) Submits an analysis of possible sources of exposure in 
support of [Provides assurance that] 
1. Public health and safety continues to be protected; and 
2. [and that] It is unlikely that the dose from manmade sources 
combined, other than medical, are more than the 100 mrem/year (1 
mSv/y) limit of 902 KAR 100:019, Section 10(1)(a); [by submitting an 
analysis of possible sources of exposure];
(b) Has employed [to the extent practical] restrictions on site use, 
to the extent practical, according to the provisions of Section 3 of 
this administrative regulation [minimizing exposure at the site];
(c) Reduces doses to ALARA levels, taking into consideration 
potential [such as traffic accidents] expected to [potentially] result from decontamination and waste disposal; and 
d. (Has submitted a decommissioning [plan] or license termination 
plan ([LTEP]) to the cabinet indicating the licensee's intent to decommission in accordance with Section 14(1) of this administrative 
regulation, and specifying that the licensee proposes to decommission by 
use of alternate criteria. The licensee shall document in the [decommissioning] plan [LTEP] how the advice of [potentially affected] individuals and institutions in the community [who may be affected by 
the decommissioning] has been sought, analyzed, and addressed, as 
appropriate [following analysis of that advice]. In seeking [such] advice, the licensee shall provide for:
1. Participation by representatives of a broad cross section of 
potentially affected community interests [who may be affected by the 
decommissioning];
2. An opportunity for a comprehensive, collective discussion on the 
issues by the participants [represented]; and
3. A publicly available summary of the results of discussions, 
including a description of the participant's [individual] viewpoints [of 
the participants on the issues] and the extent of agreement and 
agreement among the participants [on the issues].]
(2) The use of alternate criteria to terminate a license requires the 
approval of the cabinet, after consideration of recommendations that 
address comments provided by state and federal agencies, and public 
comments submitted pursuant to Section 5 of this administrative 
regulation.

Section 5. Public Notification and Public Participation. Upon the 
receipt of a license termination [LTEP] or decommissioning plan 
from the licensee, or a proposal by the licensee for release of a site 
pursuant to Section 3 or 4 of this administrative regulation, or if the 
cabinet determines a notice be in the public interest, the cabinet shall:
(1) Notify and solicit comments from:
(a) Local and state governments in the vicinity of the site; and 
(b) Other state and federal agencies, if for [cases where] the 
licensee proposes to release a site pursuant to Section 4 of this 
administrative regulation.
(2) Publish a notice to solicit comments from potentially 
affected parties. Publication shall be in a medium readily acces-
sible to individuals in the vicinity of the site, and may be:
(a) Local newspaper;
(b) Letters to state and local organizations; or 
(c) Other appropriate media, [in a forum, such as local newspaper; letters to state or local organizations, or other appropriate forum; that is readily accessible to individuals in the vicinity of the site; and solicit comments from affected parties.]

Section 6. Minimization of Contamination. An applicant for a 
license or for an amendment in its [licensees and] amendments to their [licensees'] entity shall:
1. Describe in the application how facility design and procedures 
for operation shall minimize [to the extent practicable] contamination of the facility and the environment to the extent practicable;
2. [Facilitate eventual decommissioning; and]
3. [Minimize [to the extent practicable], the generation of 
radioactive waste, to the extent practicable.]

Section 7. Criteria Relating to Use of Financial Tests and Parent 
Company Guarantees. For Providing Reasonable Assurance of Funds 
for Decommissioning. (1) An applicant or licensee may provide reason-
able assurance of the availability of funds for decommissioning based upon [on]:
(a) Obtaining a parent company to guarantee the availability of 
[funds shall be available] for decommissioning costs; and
(b) A demonstration that the parent company meets [passes a] financial requirements [test].
(2) Financial test.
(a) To pass the financial test, the parent company shall meet one 
(1) [either] of the following criteria:
1. The parent company shall have:
(a) Two (2) of the following three (3) ratios:
(i) A ratio of total liabilities to net worth less than two (2);
(ii) A ratio of the sum of net income plus depreciation, depletion, and 
amortization to total liabilities greater than one-tenth (0.1); or
(iii) A ratio of current assets to current liabilities greater than one 
and five-tenths (1.5); 
(b) Net working capital and tangible net worth each at least six (6) 
times the current decommissioning cost estimates for the total of facili-
ties or parts of the facilities, [hereof] for prescribed amount if a certifi-
cation is used;
(c) Tangible net worth of at least $10,000,000; and
(d) Assets located in the United States amounting to at least ninety 
(90) percent of the total assets or at least six (6) times the current 
decommissioning cost estimates for the total of facilities or parts of the 
facilities, [hereof] for prescribed amount if a certification is used];
2. The parent company shall have:
(a) A current rating for its most recent bond issuance of AAA, AA, A, 
or BBB as issued by Standard and Poor's, or AAA, AA, A, or BAA 
as issued by Moody's;
(b) Tangible net worth each at least six (6) times the current 
decommissioning cost estimates for the total of facilities or parts of the 
facilities, [hereof] for prescribed amount if a certification is used];
(c) Tangible net worth of at least $10,000,000;
(d) Assets located in the United States amounting to at least ninety 
(90) percent of the total assets or at least six (6) times the current 
decommissioning cost estimates for the total of facilities or parts thereof 
(hereof) for prescribed amount if a certification is used];
3. The parent company shall have:
(a) A current rating for its most recent bond issuance of AAA, AA, 
or BBB as issued by Standard and Poor's or AAA, AA, A, or BAA 
as issued by Moody's;
(b) Tangible net worth each at least six (6) times the current 
decommissioning cost estimates for the total of facilities or parts thereof 
(hereof) for prescribed amount if a certification is used];
(c) Tangible net worth of at least $10,000,000; and
(d) Assets located in the United States amounting to at least ninety 
(90) percent of the total assets or at least six (6) times the current 
decommissioning cost estimates for the total of facilities or parts thereof 
(hereof) for prescribed amount if a certification is used];
(b) The parent company's independent certified public accountant shall 
compare [have compared] the data used by the parent company in 
the financial test, which shall be derived from the independently 
audited, year-end financial statements for the latest fiscal year, with 
the amounts in the financial statement. [In connection with that procedure, the] licensees shall inform the cabinet, within ninety (90) days, of matters coming to the auditors' attention which cause the auditor to believe that:
1. The data specified in the financial test requires adjustment; and
2. [shall be adjusted and that] The company no longer satisfies the
test.

(c) 1. After the initial financial test, the parent company shall repeat the passage of the test within ninety (90) days after the close of each succeeding fiscal year.

2. If the parent company no longer meets the requirements of subsection (2)(a) of this section, the licensee shall notify [send notice to] the cabinet of its intent to establish alternate financial assurance [as specified in the cabinet's administrative regulations]. The notice shall be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee shall provide alternate financial assurance within 120 days after the end of a fiscal year.

(3) Parent company guarantee. The terms of a parent company guarantee which an applicant or licensee obtains shall provide that:
(a) The parent company guarantee shall remain in force unless the guarantor notifies [sends notice of cancellation by certified mail] the licensee and the cabinet, by certified mail, return receipt requested, of cancellation. Cancellation shall [may] not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the cabinet as evidenced by the return receipts.
(b) If the licensee fails to provide sufficient alternate financial assurance [as specified in the cabinet's administrative regulations] within ninety (90) days after receipt by the licensee and cabinet of a notice of cancellation of the parent company guarantee for the guarantor, the guarantor shall provide an alternative financial assurance in the name of the licensee.
(c) The parent company guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license.
(d) If a trust is established for decommissioning costs, the trustee and trust shall be acceptable to the cabinet. An acceptable trustee shall include an appropriate state or federal government agency or an entity which has the authority to act as a trustee, and whose trust operations are regulated and examined by a federal or state agency.

Section 8. Criteria Relating To Use of Financial Tests and Self-guarantees for Providing Reasonable Assurance of Funds for Decommissioning. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based upon [en]:
(a) Furnishing its own guarantee of [that] funds [shall-be] available for decommissioning costs pursuant to subsection (3) of this section; and
(b) A demonstration that the company passes the financial test established in subsection (2) of this section.

(2) Financial test.
(a) To pass the financial test, a company shall meet the following criteria:
1. Tangible net worth at least ten (10) times the total current decommissioning cost estimate for the total of facilities or parts of the facilities, [thereof] for the current amount required if certification is used[.]
2. Assets located in the United States amounting to at least ninety (90) percent of total assets or at least ten (10) times the total current decommissioning cost estimate for the total of facilities or parts of the facilities, [thereof] for the current amount required if certification is used[.]
3. A current rating for its most recent bond issuance of Aaa, AA, or A as issued by Standard and Poor's [Poor's (S&P)], or Aaa, Aa, or A as issued by Moody's [Moody's].
(b) To pass the financial test, a company shall meet the following additional requirements:
1. The company shall have at least one (1) class of equity securities registered pursuant to 16 USC Chapter 2B.
2. The company's independent certified public accountant shall compare [have compared] the data used by the company in the financial test, which shall be derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in the financial statement. [In connection with these procedures:] The licensee shall inform the cabinet, within ninety (90) days, of matters coming to the attention of the auditor that cause the auditor to believe that:

- a. The data specified in the financial test requires adjustment; and
- b. [shall be adjusted and that] The company no longer passes the test.

3. After the initial financial test, the company shall repeat passage of the test within ninety (90) days after the close of each succeeding fiscal year.

(c) If the licensee no longer meets the requirements of paragraph (a) of this subsection, the licensee shall notify the cabinet immediately [send immediate notice to the cabinet] of its intent to establish alternate financial assurance [as specified in this cabinet's administrative regulations] within 120 days of the [such] notice.

(3) Company self-guarantee. The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:
(a) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the cabinet. Cancellation shall [may] not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the cabinet, as evidenced by the return receipt.
(b) The licensee shall provide alternate financial assurance as specified in the cabinet's administrative regulations within ninety (90) days following receipt by the cabinet of a notice of cancellation of the guarantee.
(c) The guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put into [an] effect by the licensee.
(d) The licensee shall promptly forward to the cabinet and the licensee's independent auditor the reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of 15 USC 77m.

(4) If at any time [prior]: the licensee's most recent bond issuance ceases to be rated [in a category of] A or above by either Standard and Poor's or Moody's, the licensee shall notify [provide notice in writing of such fact] to the cabinet in writing, within twenty (20) days after publication of the change by the rating service. If the licensee's most recent bond issuance ceases to be rated A [in a category of] or above by both Standard and Poor's and Moody's, the licensee shall no longer meet the requirements of subsection (2)(a) of this section.

(5) An [The] applicant or licensee shall provide to the cabinet a written guarantee [which states] that the licensee shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

Section 9. Criteria Relating To Use of Financial Tests and Self-guarantees for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies that Have No Outstanding Rated Bonds. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based upon [en]:
(a) Furnishing its own guarantee of [that] funds [shall-be] available for decommissioning costs pursuant to subsection (3) of this section; and
(b) A demonstration that the company passes the financial test established in subsection (2) of this section.

(2) Financial test.
(a) To pass the financial test, a company shall meet the following criteria:
1. Tangible net worth greater than $10,000,000, or at least ten (10) times the total current decommissioning cost estimate, (if the current amount required if certification is used), whichever is greater, for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.
2. Assets located in the United States amounting to at least ninety (90) percent of total assets or at least ten (10) times the total current decommissioning cost estimate, (if the current amount required if certification is used), for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.
3. A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by net worth less than one and
A company shall also meet the following financial requirements:

1. The company's independent certified public accountant shall compare the data used by the company in the financial test, which shall be derived from the independently audited year-end financial statement, based on United States generally accepted accounting practices, for the latest fiscal year, with the amounts in the financial statement. In connection with this procedure, the licensee shall inform the cabinet, within ninety (90) days, of matters that may cause the auditor to believe that:
   a. The data specified in the financial test requires adjustment; and
   b. [shall be adjusted and that] The company no longer passes the test.

2. After the initial financial test, the company shall repeat passage of the test within ninety (90) days after the close of each succeeding fiscal year.

3. If the licensee no longer meets the requirements of paragraph (a) of this subsection, the licensee shall notify the cabinet of its intent to establish alternative financial assurance [as specified in this administrative regulation]. The notice shall be sent by certified mail, return receipt requested, within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee shall provide alternative financial assurance within 120 days after the end of the fiscal year.

4. Company self-guarantee. The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:

   a. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the cabinet. Cancellation shall [may] not occur until an alternative financial assurance mechanism is in place.

   b. The licensee shall provide alternative financial assurance, as specified in this administrative regulation, within ninety (90) days following receipt by the cabinet of a notice of cancellation of the guarantee.

   c. The guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put into effect by the licensee.

5. If [the] applicant [or] licensee shall provide to the cabinet a written guarantee [a written commitment by a corporate officer stating which states] that the licensee shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

Section 10. Criteria Relating to Use of Financial Tests and Self-guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Nonprofit Colleges, Universities, and Hospitals. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based upon:

   a. Furnishing its own guarantee of the availability of funds [that funds shall be available] for decommissioning costs; and

   b. A demonstration that the applicant or licensee passes the financial test [requirement to subsection (b) of this section] established in subsection (2) of this section.

(2) Financial test.

   a. For colleges and universities, to pass the financial test A college or university shall meet either of the following criteria:

      1. For an applicant or licensee that issues bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of A, AA, or A as issued by Standard and Poor's, [Baa] or Aaa, A, or as issued by Moody's;

      2. For an applicant or licensee that does not issue bonds, unrestricted endowment consisting of assets located in the United States of at least $50,000,000, or at least thirty (30) times the total current decommissioning cost estimate, [for the current amount required if certification is used], whichever is greater, for decommissioning activities for which the college or university is responsible as a self-guaranteeing licensees.

   6. For hospitals, to pass the financial test A hospital shall meet the following criteria:

      1. For an applicant or licensee that issues bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poor's, [Baa] or Aaa, A, or as issued by Moody's;

      2. For an applicant or licensee that does not issue bonds, the following tests shall be met:

         a. The result of [if] the total revenue minus [less] total expenditures, [if] divided by total revenues, shall be equal to or greater than 0.04; and

         b. Long term debt divided by net fixed assets shall be less than or equal to 0.67;

         c. The sum of [if] current assets plus [and] depreciation of funds, [funds] divided by current liabilities, shall be greater than or equal to 2.58; and

         d. Operating revenues shall be at least 100 times the total current decommissioning cost estimate, [if] or the current amount required if certification is used, [if] for decommissioning activities for which the hospital is responsible as a self-guaranteeing license.

   d. In addition, to pass the financial test A licensee shall meet the following requirements:

      1. A [the] licensee's independent certified public accountant shall compare the data used by the licensee in the financial test which shall be [required-to-be] derived from the independently audited year-end financial statements, based on United States generally accepted accounting practices, for the latest fiscal year, with the amounts in the financial statement. In connection with this procedure, the licensee shall inform the cabinet, within ninety (90) days, of matters coming to the attention of the auditor that cause the auditor to believe that:

         a. The data specified in the financial test requires adjustment; and

         b. [may be adjusted and that] The licensee no longer passes the test.

      2. After the initial financial test, the licensee shall repeat passage of the test within ninety (90) days after the close of each succeeding fiscal year.

      3. If [the] licensee no longer meets the requirements of subsection (1) of this section, the licensee shall notify the cabinet of its intent to establish alternative financial assurance [as specified in cabinet administrative regulations]. The notice shall be sent by certified mail, return receipt requested, within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee shall provide alternative financial assurance within 120 days after the end of the fiscal year.

      4. Self-guarantee. The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:

         a. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the cabinet. Cancellation shall [may] not occur until an alternative financial assurance mechanism is in place.

         b. The guarantee shall provide alternative financial assurance, as specified in this administrative regulation, within ninety (90) days following receipt by the cabinet of a notice of cancellation of the guarantee.

         c. The guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put into effect by the licensee.

   5. If [the] applicant [or] licensee shall provide to the cabinet a written guarantee [a written commitment by a corporate officer stating which states] that the licensee shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

   b. The licensee shall provide alternative financial assurance, as specified in this administrative regulation, within ninety (90) days following receipt by the cabinet of a notice of cancellation of the guarantee.

   c. The guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put into effect by the licensee.

   d. An [the] applicant [or] licensee shall provide to the cabinet a written guarantee [a written commitment by a corporate officer stating which states] that the licensee shall:

      1. Furnish and carry out the required decommissioning activities; or

      2. [Or] Upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

   e. If, at a time, the licensee's most recent bond issuance ceases to be rated in a category of A or above by either Standard and Poor's or Moody's, the licensee shall notify [provide notice-in-writing of each fact to] the cabinet, in writing, within twenty (20) days after publication of the change by the rating service.
Section 11. Financial Assurance and Recordkeeping for Decommissioning for Radioactive Material. (1)(a) An applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities in Section 16 of this administrative regulation shall submit a decommissioning funding plan as described in Section 15 of this administrative regulation.

(b) A decommissioning funding plan shall also be submitted if a combination of isotopes is involved, and if R divided by 10^5 is greater than one (1) (known as the "unity rule"), where R is defined here as the sum of the ratios of the quantity of an isotope to the applicable value in Section 16 of this administrative regulation.

(2) An applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in subsection (4) of this section shall:

(a) Submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation; or

(b) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by subsection (4) of this section, using one (1) of the methods described in Section 15 of this administrative regulation. For an applicant, the [this] certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued, but before the receipt of licensed material. If an [the] applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation shall be submitted to the cabinet before receipt of licensed material. If an [the] applicant does not defer execution of the financial instrument, the applicant shall submit to the cabinet, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation.

(3)(a) A holder of a specific license [which is] of a type described in subsection (1) or (2) of this section, shall provide financial assurance for decommissioning in accordance with the criteria established in this section.

(b) A holder of a specific license of a type described in subsection (1) of this section shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation or a certification of financial assurance for decommissioning in an amount at least equal to $750,000 [in accordance with the criteria established in this section]. If a [the] licensee submits a [the] certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in an application for license renewal.

(c) A holder of a specific license [of a] of a type described in subsection (2) of this section shall submit a decommissioning funding plan as described in Section 15 of this administrative regulation, or a certification of financial assurance for decommissioning in accordance with the criteria established in this section.

(4) The following is a table of required amounts of financial assurance for decommissioning, listed by quantity of radioactive material:

(a) Greater than 10^5 but less than or equal to 10^6 times the applicable quantities established in [of] Section 16 of this administrative regulation, in unsealed form. If for a combination of isotopes, if R, as defined in subsection (1) of this section, divided by 10^5 is greater than one (1) but R divided by 10^5 is less than or equal to one (1), the amount shall be [3] $750,000.

(b) Greater than 10^6 but less than or equal to 10^8 times the applicable quantities established in [of] Section 16 of this administrative regulation, in unsealed form. If for a combination of isotopes, if R, as defined in subsection (1) of this section, divided by 10^5 is greater than one (1) but R divided by 10^5 is less than or equal to one (1), the amount shall be [3] $150,000.

(c) Greater than 10^6 times the applicable quantities established in [of] Section 16 of this administrative regulation, in sealed sources or plated foils. If for a combination of isotopes, if R, as defined in subsection (1) of this section, divided by 10^5 is greater than one (1), the amount shall be [3] $75,000.

Section 12. Financial Assurance and Recordkeeping for Decommissioning for Source Material. [This] Criteria for providing financial assurance for decommissioning, except for licenses authorizing the receipt, possession, and use of source material for uranium or thorium milling, or radioactive material at sites formerly associated with such milling, shall be as follows:

(1)[(a)] An applicant for a specific license authorizing the possession and use of more than 100 milliequivalents (mCi) of source material in a readily dispersible form shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation.

(b) If an [the] applicant for a specific license authorizing possession and use of quantities of source material greater than 10 milliequivalents (mCi) but less than or equal to 100 milliequivalents (mCi) in a readily dispersible form shall submit:

(a) A decommissioning funding plan as described in Section 15(1) of this administrative regulation; or

(b) A certification that financial assurance for decommissioning has been provided in the amount of $150,000 using one (1) of the methods described in Section 15 of this administrative regulation.

1. [a] The [this] certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued, but before the receipt of licensed material.

2.[b.] If an [the] applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation shall be submitted to the cabinet prior to receipt of licensed material.

3.[[c] If an [the] applicant does not defer execution of the financial instrument, the applicant shall submit to the cabinet, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation.

(4) A holder of a specific license which is covered by subsection (1) or (b) of this section or by this subsection shall provide financial assurance for decommissioning in accordance with the criteria established in this section.

(5) A holder of a specific license of a type described in subsection (1) or (2) of this section shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation, or a certification of financial assurance for decommissioning in an amount at least equal to $750,000, in accordance with the criteria in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in an application for license renewal.

(6) A holder of a specific license of a type described in this subsection (4) or (b) of this section shall submit a decommissioning funding plan, as described in Section 15(1) of this administrative regulation, or a certification of financial assurance for decommissioning in accordance with the criteria established in this section.

Section 13. Financial Assurance and Recordkeeping for Decommissioning for Special Nuclear Material. (1)(a) An applicant for a specific license of the type authorizing the possession and use of unsealed nuclear material in quantities exceeding 10^5 times the applicable quantity established in Section 16 of this administrative regulation [described in this subsection] shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation.

(b) A specific license authorizing the possession and use of unsealed special nuclear material in quantities exceeding 10^5 times the applicable quantities established in Section 16 of this administrative regulation] A decommissioning funding plan shall [also] be submitted when a combination of isotopes is involved, and R divided by 10^5 is greater than one (1) (known as the "unity rule"), where R is the sum of the ratios of the quantity of each isotope to the applicable value in Section 16 of this administrative regulation.

(2) An applicant for a specific license authorizing possession and use of unsealed special nuclear material in quantities specified in subsection (4) of this section, shall submit:

(a) A decommissioning funding plan as described in Section 15(1) of this administrative regulation; or

(b) A certification that financial assurance for decommissioning has been provided in an [the] amount established in [prescribed by] subsection (4) of this section, using one (1) of the methods described in Section 15 of this administrative regulation.
1. The certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued, but before the receipt of licensed material.

2. If an applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation shall be submitted to the cabinet before receipt of licensed material.

3. If an applicant does not defer execution of the financial instrument, the applicant shall submit to the cabinet, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation.

4. A holder of a specific license which is of a type described in subsection (1) of this section shall provide financial assurance for decommissioning in accordance with the criteria established in this section.

5. A holder of a specific license of a type described in subsection (1) of this section shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation, or a certification of financial assurance for decommissioning in an amount at least equal to $750,000, in accordance with the criteria established in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan [at this time], the licensee shall include a decommissioning funding plan in an application for license renewal.

6. Each holder of a specific license of a type described in subsection (1) of this section shall submit:

(a) A decommissioning funding plan, described in Section 15(1) of this administrative regulation; or

(b) A certification of financial assurance for decommissioning, in accordance with the criteria established in this section.

7. The following is a table of required amounts of financial assurance for decommissioning, listed by quantity of material:

(a) Greater than 10³ but less than or equal to 10⁶ times the applicable quantities established in Section 16 of this administrative regulation.

(b) Greater than 10⁶ but less than or equal to 10⁹ times the applicable quantities established in Section 16 of this administrative regulation.

8. For a combination of isotopes, if R, as defined in subsection (1) of this section, divided by 10³ is greater than one (1) but R divided by 10⁶ is less than or equal to one (1), the amount shall be $750,000.

9. The following is a table of required amounts of financial assurance for decommissioning, listed by quantity of material:

(a) Greater than 10³ but less than or equal to 10⁶ times the applicable quantities established in Section 16 of this administrative regulation.

(b) Greater than 10⁶ but less than or equal to 10⁹ times the applicable quantities established in Section 16 of this administrative regulation.

Section 14. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas. (1) Within sixty (60) days of the occurrence of the events, a licensee shall notify [provide notification to] the cabinet, in writing, and shall either begin decommissioning its site, or separate building, or outdoor area containing [that contains] residual radioactivity, so that the building or outdoor area is suitable for release in accordance with cabinet requirements, or shall submit, within twelve (12) months of notification, a decommissioning plan, if required by subsection (3)(a) of this section, and shall begin decommissioning upon approval of that plan if:

(a) The license has expired pursuant to 502 KAR 100:040, Section 7;

(b) The licensee has decided to permanently cease principal activities, as defined in this section, at the entire site, or in a separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is unsuitable for release in accordance with cabinet requirements;

(c) Principal activities under the license have not been conducted for a period of twenty-four (24) months; or

(d) Principal activities have not been conducted, for a period of twenty-four (24) months, in a separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is unsuitable for release in accordance with cabinet requirements.

2. Coincident with the notification required by subsection (1) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensees pursuant to Sections 11, 12 and 13 of this administrative regulation, in conjunction with a license issuance or renewal, as required by this section. The amount of the financial assurance shall be increased or decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to subsection (4)(d) of this section.

(a) A license who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so within one year (1) after the effective date of this administrative regulation.

(b) Following approval of the decommissioning plan, and with cabinet approval, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the cabinet.

(c) The cabinet may grant a request to extend the time periods established in this section, if the cabinet determines that an extension [this relief] is not detrimental to the public health or [end] safety, and is in the public interest. The request shall be submitted at least [no later than] thirty (30) days before the notification required by [pursuant to] subsection (1) of this section. The schedule for decommissioning established in subsection (1) of this section may not commence until the cabinet has made a determination on the request.

(d) A decommissioning plan shall be submitted if required by a license condition or if the procedures and activities necessary to carry out decommissioning of the site, or separate building, or outdoor area have not been [previously] approved by the cabinet [previously], and the decommissioning procedures may increase potential risk to the health or safety of [the procedures could increase potential health and safety impacts to workers or to the public, such as in the following cases:

1. Procedures involving [involve] techniques not applied routinely during cleanup or maintenance operations;

2. Workers entering [enter] areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

3. Procedures potentially resulting [may result] in significantly greater airborne concentrations of radioactive materials than are present during operation; or

4. Procedures potentially resulting [may result] in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The cabinet may approve an alternate schedule for submittal of a decommissioning plan required pursuant to subsection (1) of this section if the cabinet determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health or [end] safety, and is in the public interest.

(c) A procedure [procedures such as those listed in subsection (4)(a) of this section] with a potential health or [end] safety impact, including a procedure listed in paragraph (a) of this subsection [impact] may not be carried out prior to approval of the decommissioning plan.

(d) A [The] proposed decommissioning plan for a [the] site, or separate building, or outdoor area shall include:

1. A description of the conditions of the site, or separate building, or outdoor area sufficient to evaluate the acceptability of the plan;

2. A description of planned decommissioning activities;

3. A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

4. A description of the planned final radiation survey;

5. An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning and

5. For decommissioning plans calling for completion of decommissioning later than twenty-four (24) months after plan approval, the plan shall include a justification for the delay based on the criteria in subsection (5) of this section.

(e) The proposed decommissioning plan shall be approved by the cabinet if the information therein demonstrates [that the decommissioning shall be] completed as soon as practicable, and adequate protection for [the] health and safety of workers and
the public [shall be adequately protected].

(5)(a) A licensee [licensee] shall complete decommissioning of the site, or separate building, or outdoor area as soon as practicable, but within [no later than] twenty-four (24) months following the initiation of decommissioning, except as provided in subsection (6) of this section.

(b) If decommissioning involves the entire site, the licensee shall request license termination as soon as practicable, but within [no later than] twenty-four (24) months following the initiation of decommissioning, except as provided in subsection (6) of this section.

(6) The cabinet may approve a request for an alternative schedule for completion of decommissioning of the site, or separate building, or outdoor area, and license termination if appropriate, if the cabinet determines that the alternative is warranted by consideration of the following:

(a) If it is technically feasible to complete decommissioning within the allotted twenty-four (24) month period;

(b) If sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted twenty-four (24) month period;

(c) If a significant volume reduction in wastes requiring disposal can [shall] be achieved by allowing short-lived radionuclides to decay;

(d) If a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors [which the cabinet may consider appropriate on a case-by-case basis], such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that may result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(7) As the final step in decommissioning, the licensee shall:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed cabinet "Form RPS-10", incorporated by reference in 902 KAR 100:040, or equivalent information, and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning established in Sections 1 through 6 of this administrative regulation. The licensee shall, as appropriate:

1. Report levels:

a. Of gamma radiation in units of microcigront (µR) (millisieverts, mSv) per hour at one (1) meter from surfaces, and report levels;

b. Of radioactivity, including alpha and beta, in units of disintegrations per minute, microcuries (megabecquerels) per 100 square centimeters removable and fixed radiation for surfaces;

c. Microcuries (megabecquerels) per milliliter for water; and

d. Picocuries (becquerels) per gram for solids such as soils or concrete; and

2. Specify the survey instruments used and certify that each instrument is properly calibrated and tested.

(8) Specific licenses, including expired licenses, shall be terminated by written notice to the licensee if the cabinet determines that:

(a) Radioactive material has been properly disposed of;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning established in Sections 1 through 6 of this administrative regulation; or

(d) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning established in Sections 1 through 6 of this administrative regulation; or

(e) Records required by 902 KAR 100:040, Section 7(3)(e), and Section 15(7) of this administrative regulation have been received.

Section 15. Financial Assurance Methods. (1) A decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from subsection (2) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. The decommissioning funding plan shall also contain:

(a) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(b) A signed original of the financial instrument obtained to satisfy the requirements of subsection (2) of this section.

(2) Financial assurance for decommissioning shall be provided by one (1) or more of the following methods:

(a) A prepayment deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets so that the amount of funds may be sufficient to pay decommissioning costs. Prepayment may be in the form of a surety bond, escrow account, government fund, certificate of deposit, or deposit of government securities.

(b) A surety method, insurance, or other guarantee method.

1. These methods guarantee that decommissioning costs shall be paid.

2. A surety method may be in the form of a surety bond, letter of credit, or line of credit.

3. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Section 7 of this administrative regulation.

4. A parent company guarantee may not be used in combination with another [other] financial method [methods] to satisfy the requirements of this section.

5. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are in accordance with [as contained in] Section 8 of this administrative regulation.

6. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are in accordance with Section 9 of this administrative regulation.

7. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are in accordance with Section 10 of this administrative regulation.

8. A guarantee by the applicant or licensee shall [may] not be used in combination with another [other] financial method [methods] used to satisfy the requirements of this section, or in a situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company.

9. A surety method, financial instrument used to provide financial assurance for decommissioning shall contain the following conditions:

a. The surety method or insurance shall be open-ended or, if written for a specified term, such as ten (10) years, shall be renewed automatically unless [ninety (90) days or more prior to the renewal date, the issuer notifies the cabinet, the beneficiary, and the licensee, at least ninety (90) days prior to the renewal date, of its intention not to renew. The surety method or insurance shall [may] provide that the full face amount be paid to the beneficiary automatically, prior to the expiration, without proof of forfeiture, if the licensee fails to provide a replacement acceptable to the cabinet within thirty (30) days after receipt of notification of cancellation.

b. The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the cabinet. An acceptable trustee shall include an appropriate state or federal government agency or an entity that [which] has the authority to act as a trustee, and whose trust operations are regulated and examined by a federal or state agency.

c. The surety method or insurance shall remain in effect until the cabinet has terminated the license.

(d) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund.

1. An external sinking fund shall be a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control, in which the total amount of funds may be sufficient to pay decommissioning costs at the time termination of operation is expected.

2. An external sinking fund may be in the form of a trust, escrow...
account, government fund, certificate of deposit, or deposit of government securities.

3. The surety or insurance provisions shall be as stated in subsection (2)(b) of this section.

(d) For a [in-the-case-of] federal, state, or local government license [licensees], a statement of intent containing a cost estimate for decommissioning, or an amount based on the tables in Sections 11, 12, and 13 of this administrative regulation, and indicating that funds for decommissioning shall be obtained when necessary.

(e) If a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by the governmental entity.

(3) [¶9] Each person licensed under 902 KAR 100:040 shall keep records of information pertinent [important] to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with 902 KAR 100:040, Section 6, a licensee [licensees] shall transfer the records described in this subsection to the new licensee. [In-the-case] The new licensee shall be responsible for maintaining these records until the license is terminated. If records pertinent [important] to the decommissioning of a facility are kept for other purposes, reference to the [these] records and their locations may be used. Information the cabinet considers pertinent [important] to decommissioning shall consist of:

(a) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. The [These] records shall be limited to instances when contamination remains after a cleanup procedure [procedures] or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. The [These] records shall include all [a] known information on identification of involved nuclides, quantities, forms, and concentrations.

(b) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used, or stored, and of locations of possible inaccessible contamination, such as buried pipes, which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(c) A list contained in a single document and updated every two (2) years, except for areas containing only sealed sources, provided the sources have not leaked or no contamination remains after a leak, or radioactive materials having only half-lives of less than sixty-five (65) days, or depleted uranium used only for shielding or as penetrators in unused munitions:

1. Areas designated and formerly designated restricted areas as defined in 902 KAR 100:010, Section 1. For requirements prior to January 26, 1984, see 902 KAR 100:010, Section 1 contained in the 1980 edition of 902 KAR Chapter 100;

2. Areas outside of restricted areas that require documentation under subsection (3) [¶9] of this section.

3. Areas outside of restricted areas where current and previous wastes have been buried as documented under 902 KAR 100:021, Section 11; and

4. Areas outside of restricted areas that contain material so that, if the license expired, the licensee shall be required to either decontaminate the area to meet the criteria for decommissioning in this administrative regulation, or to apply for approval for disposal under 902 KAR 100:021, Section 2.

(d) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for ensuring funds if either a funding plan or certification is used.

Section 16. Quantities* of Licensed Material.

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1Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.
2Based on alpha disintegration rate of U-238, U-234, and U-235.

Note: For purposes of 502 KAR 100:021, Section 3, where there is involved a combination of isotopes in known amounts, the limit for the combination shall be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed one ("1") (i.e., "unity").

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.
907 KAR 1:102. Advanced registered nurse practitioner services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194A.050, 42 CFR Part 493, 42 USC 1396a, b, c, d
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Medicaid Program [of medical assistance]. KRS 205.520 authorizes the cabinet, by administrative regulation, to [shall] comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizens. This administrative regulation establishes [sets forth] the provisions relating to advanced registered nurse practitioner services for which payment shall be made by the Medicaid Program in behalf of both the categorically needy and the medically needy.

Section 1. Definitions. (1) "Advanced registered nurse practitioner" or "ARNP" is defined in KRS 314.011(7). [means one who is registered and designated to engage in advanced registered nursing practice pursuant to KRS 314.042, including the nurse anesthetist, nurse midwife, and nurse practitioner.

(2) "Common practice" means a contractual partnership in which a physician and an ARNP jointly administer health care services.

(3) "Department" means the Department for Medicaid Services of its designated agent.

(4) "Emergency medical condition" means a medical condition that manifests itself by acute symptoms of sufficient severity (including severe pain) that the prudent layperson with 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 a bodily organ or part.

(5) "Emergency services" means covered inpatient or outpatient services, including emergency ambulance transport, furnished by a qualified provider if the services are needed to evaluate or stabilize an emergency medical condition that is found to exist using the prudent layperson standard.

(6) "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 emergency medical condition that is found to exist using the prudent layperson standard; and
(g) If applicable, provided in accordance with early and periodic screening, diagnosis, and treatment (EPSDT) requirements established in 42 USC 1396(d) and 42 CFR Part 411 Subpart B for individuals under twenty-one (21) year of age. "Established patient" means one who has received professional services from the provider within the past three (3) year period.

(5) "Locally infiltrated anesthesia" means a superficial or topical agent administered to anesthetize nerves or nerve tracts in a localized area of the body.

(7) "New patient" means one who has not received professional services from the provider within a three (3) year period.

(8) "Prudent layperson standard" means the criterion used to determine the existence of an emergency medical condition whereby a prudent layperson, who possesses an average knowledge of health and medicine, determines that a medical condition manifests itself by acute symptoms of sufficient severity (including severe pain) 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 a bodily organ or part.

(9) "Recipient" means an individual who has been determined by the Kentucky Department of Community Based Services to be eligible to have the Kentucky Medicaid Program make reimbursement for covered services.

(10) "Regional anesthesia" means an agent administered by injection or infiltrating a catheter for the purpose of anesthetizing a region of the body.

Section 2. Conditions of Participation. (1) An ARNP [as defined in Section 1(1) of this administrative regulation] may participate in Kentucky Medicaid by complying with the terms and conditions established in 907 KAR 1:671 and 907 KAR 1:672.

(2) A service provided by an ARNP to a Kentucky Medicaid recipient shall be substantiated by medical records signed by the ARNP which correspond to the date and service reported on the claim submitted for payment to Kentucky Medicaid.

(3) In addition to the requirements established in subsection (2) of this section, the ARNP shall document in the medical record of a hospitalized Kentucky Medicaid recipient that the ARNP performed one (1) or more of the following:

(a) A personal review of the recipient's medical history;
(b) A physical examination;
(c) A confirmation or revision of the recipient's diagnosis;
(d) A visit with the recipient;
(e) A discharge service for the recipient.

Section 3. ARNP Covered Services. (1) An ARNP covered service shall be:

(a) A medically necessary service furnished by an ARNP through direct practitioner-patient interaction; and
(b) A service which is:
1. Within the legal scope of practice of the ARNP as specified in 201 KAR 20:057; and
2. Eligible for reimbursement by Kentucky Medicaid; and
(c) With the exception of a service established in Section 4 of this administrative regulation, a service which is determined by the department to be medically necessary.

(2) Administration of anesthesia by an ARNP shall be a covered service.

(3) Prescribing of drugs by an ARNP shall be in accordance with 907 KAR 1:019. If a specific brand of prescription is determined by the ARNP to be medically necessary for a patient, the certification procedure shall conform with the requirements established in 907 KAR 3:005.

(4) (a) The cost of the following injectables administered in a physician or independent practitioner's office shall be covered:
1. [1(a)] Rho (D) immune globulin injection;
2. [1(b)] Injectable antinecancer chemotherapy administered to a recipient in accordance with 907 KAR 3:005;
3. [1(e)] Depo-Provera contraceptive injection if provided in an office setting;
4. [1(e)] Penicillin G and cephalosporin injectable antibiotics; and
5. [1(e)] Epidural injection if administered in accordance with the requirements established in 907 KAR 3:005.
(b) The cost of injectables not specified in paragraph (a) of this subsection shall be covered in accordance with 907 KAR 1:019, Section 2.

(5) An outpatient laboratory procedure performed by an ARNP who has been certified in accordance with 42 CFR Part 493 and KRS 205.520 shall be covered.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(5) An obstetrical and gynecological service shall be covered as follows:
(a) An annual gynecological examination;
(b) Prenatal care;
(c) A delivery service, which shall include:
1. Admission to the hospital;
2. Admission history;
3. Physical examination;
4. Anesthesia;
5. Management of uncomplicated labor;
6. Vaginal delivery; and
7. Postpartum care.
(d) A routine newborn service of an infant born to a Kentucky Medicaid eligible recipient:
   (e) An insertion of an intrauterine device (IUD), including the cost of the device, or removal of the IUD; or [and]
   (f) The insertion of an implantable contraceptive capsule, including the cost of the contraceptive capsule and related supplies, or removal of the contraceptive capsule,
(7) An EPSDT screening service provided in compliance with the periodically schedule established in 907 KAR 1:004 shall be covered.
(8) The standard for determining the existence of an emergency medical condition and the need for emergency services shall be:
(a) In accordance with 42 USC 1395u-2; and
(b) Based on the prudent layperson standard.

Section 4. Service Limitations. (1) A limitation on a service provided by a physician in accordance with 907 KAR 3:005 shall [also] apply if the service is provided by an ARNP.
(2) The same service performed by an ARNP and a physician on the same day within a common practice shall be considered as one (1) covered service.

Section 5. Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:593.
(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:569.
(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:571. [Advanced Registered Nurse Practitioner (ARNP) Services.]
(f) For services provided on or after February 1, 1993, covered services shall include those furnished by a licensed practicng-advanced registered nurse practitioner (ARNP) (including nurse-midwives) to eligible Medicaid recipients through direct-patient contact. Services shall be those which are within the scope of their practice as a licensed ARNP so long as the services are covered in the Medicaid program.
(g) Advanced registered nurse practitioners participating as nurse anesthetists shall also comply with 907 KAR 1:000; Nurse Anesthetists’ services; and 907 KAR 1:210; Payments for nurse anesthetists; as appropriate.

Section 2. Participation Requirements. An ARNP desiring to participate in the Medicaid Program shall:
(1) Meet all applicable requirements of state laws and conditions for practice as a licensed ARNP. A current copy of the ARNP’s license shall accompany each participation application;
(2) Enter into a provider agreement with the Cabinet for Human Resources, Department for Medicaid Services to provide ARNP services; and
(3) Provide and bill for the services in accordance with the terms and conditions of the provider participation agreement.

Section 3. Service Limitations. (1) Limitations applicable with regard to services provided by physicians (as described in 907 KAR 1:009) shall also be applicable with regard to ARNPs;
(2) Immunizations provided by ARNPs are not covered;
(3) When an ARNP and a physician perform the same service on the same day within a common practice, only one (1) of the services shall be covered.

(4) When an ARNP provides and bills an office visit, an office visit or consultation by a physician in a common practice with the ARNP for a visit by the same patient on the same day is not covered. When a physician(s) provides and bills an office visit, an office visit or consultation by an ARNP in a common practice with the physician for a visit by the same patient on the same day is not covered.
(5) When an ARNP refers a patient to a physician based on medical necessity, the necessity for the referral shall be documented in the patient’s record or chart.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: April 27, 2000
FILED WITH LRC: May 26, 2000 at 10 a.m.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(As Amended at ARRS, August 1, 2000)


RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194A, 050, 42 USC 1396a, b, c, d, 42 USC 447,200
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Medicaid Program [medical assistance]. KRS 205.520 authorizes the cabinet, by administrative regulation, to [shall] 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 method for determining amounts payable by the cabinet for a service provided by an advanced registered nurse practitioner [practitioners] (ARNP).

Section 1. Definitions. (1) "Advanced registered nurse practitioner" or "ARNP" is defined in KFS 314.011(7), [means one who is registered and designated to engage in advanced registered nursing-practice pursuant to KRS 314.042, including the nurse anesthetist; nurse midwife; and nurse practitioner].
(2) "Department" means the Department for Medicaid Services or its designated agent.

Section 2. Reimbursement. (1) Except as specified in subsection (2) of this section or Section 3 of this administrative regulation, reimbursement for a procedure shall be based on the lesser of the following:
(a) The ARNP's actual billed charge for the service; or
(b) Seventy-five (75) percent of the amount reimbursable to a Medicaid participating physician for the same service pursuant to 907 KAR 3:010.
(2) An ARNP employed by a primary care center, federally qualified health center, hospital, or comprehensive care center shall not be reimbursed directly for services provided in that setting while operating as an employee.

Section 3. Reimbursement Limitations. (1) The department shall reimburse an ARNP a three (3) dollar and thirty (30) cent fee for each [a] vaccine administered to a Medicaid recipient under the age of twenty-one (21) up to a maximum of three (3) administrations per ARNP, per recipient, per date of service.
(2) The department shall not reimburse an ARNP for the cost of a vaccine which is available free through the Vaccines for Children Program in accordance with 42 USC 1996a.
(3) Injectable antibiotics, antineoplastic chemotherapy, and contraceptives in accordance with 907 KAR 1:102, Section 3(4), shall be reimbursed for an ARNP at the lesser of:
(a) The actual billed charge; or
(b) The average wholesale price of the medication supplied minus
ten (10) percent.
(4) Reimbursement for an orthopedic service requiring casting or splinting shall be restricted as follows:
(a) Payment for a cast or splint applied in conjunction with a surgical procedure shall be inclusive in the payment of the surgical procedure;
(b) Payment shall not be made for a cast or splint application for the same injury or condition within ninety (90) days of the date of the surgical service; and
(c) A cast or splint applied for a subsequent injury or condition within ninety (90) days of the first cast or splint application shall be reimbursed if accompanied by supporting documentation.
(5) Reimbursement of an anesthesia service provided during a procedure shall be inclusive of the following elements:
(a) Preoperative and postoperative visits;
(b) Administration of the anesthetic;
(c) Administration of intravenous fluids and blood or blood products incidental to the anesthesia or surgery;
(d) Postoperative pain management; and
(e) Monitoring services.
(6) Reimbursement of a psychiatric service provided by an ARNP shall be limited to four (4) psychiatric services per ARNP, per recipient, per twelve (12) months.
(7) Reimbursement for a laboratory service provided in an office setting shall include the fee for collecting and analyzing a specimen.
(8) A fee for a laboratory test requiring an arterial puncture or a venipuncture shall include the fee for the puncture.
(9) Reimbursement shall be limited to one (1) of the following evaluation and management services per recipient, per date of service:
(a) A consultation service;
(b) A critical care service;
(c) An emergency department evaluation and management service;
(d) A home evaluation and management service;
(e) A hospital inpatient evaluation and management service;
(f) A nursing facility service;
(g) An office or other outpatient evaluation and management service;
(h) A preventive medicine service; or
(i) A psychiatric or psychotherapy service.

Section 4. 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 1:560.
(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:571. [General Requirements—Relating to Payments. For services provided on or after February 1, 1993, participating licensed advanced registered nurse practitioners (including nurse-midwives) shall be paid only for covered services rendered to eligible Medicaid recipients which are within the scope of their practice as a licensed advanced registered nurse practitioner.

Section 2—Payments. (1) Licensed participating advanced registered nurse practitioners shall be reimbursed at usual and customary actual billed charges up to the fixed-upper limit per procedure established by the cabinet at seventy-five (75) percent of the physicians’ fixed-upper limit per procedure.
(2) An ARNP employed by a primary care center, federally qualified health center, or comprehensive care center shall not bill directly.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: April 27, 2000
FILED WITH LRC: May 26, 2000 at 10 a.m.
922 KAR 1:140. Foster care and adoption permanency services [assistance].


STATUTORY AUTHORITY: KRS 194B.050(1), 620.180, 42 USC 620-628, 672, 673.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) provides that the Secretary of the Cabinet for Families and Children shall adopt administrative regulations necessary to operate programs and fulfill the responsibilities vested in the Cabinet. This administrative regulation is required by 42 USC 620-628, 672, 673, Adoption Assistance and Child Welfare Act of 1980. It serves to set forth the maximum number of children in foster care that can remain in care for more than twenty-four (24) months and the steps which shall be taken to achieve the goal. Additionally, this administrative regulation establishes the process pursuant to KRS 620.180 of reviewing the status of a child and those services that are provided to best meet the needs of a child placed in out-of-home care. This administrative regulation has been promulgated in compliance with KRS 13A.221 that requires a separate administrative regulation for each topic of general subject matter.

Section 1. Definitions. (1) "Aggravated circumstance" means the existence of a condition pursuant to 2000 Ky Acts ch. 60.
(2) "Cabinet" means the Cabinet for Families and Children.
(3) "Concurrent planning" means the cabinet may simultaneously plan for:
(a) Reunification of a child under the custodial control of the cabinet; and
(b) Permanent removal of the child if the prognosis for reunification is poor.
(4) "Reasonable efforts" means the exercise of ordinary diligence and care by the cabinet to use preventive and reunification services available that are necessary to enable the child to safely live at home pursuant to KRS 620.090. "[Child-care institution]" means an institution as governed by 42 USC 626-672.
(5) "Family foster home" means a private family household which is approved by the cabinet for families and children for out-of-home care.
(5) "Foster care" means care of a child in a family foster home or child care institution.

Section 2. Children in Care. During the federal fiscal year beginning October 1, 1993 and succeeding fiscal years, the maximum number of children who may receive foster care in excess of twenty-four (24) months is 3000.

Section 3. Permanency Planning. (1) Cabinet staff shall demonstrate to the satisfaction of the court that reasonable efforts shall:
(a) [shall] have been made to enable the child to live safely at home; or
(b) [shall] Not be required pursuant to 2000 Ky Acts ch. 60, and shall include [including when] consideration of [has been given to] a parent's:
1. Subjection of a child to an aggravated circumstance;
2. Ability to care for the child because alcohol or drug abuse contributes to abuse or neglect by the parent of the child and the parent has established a pattern of noncompliance with available treatment;
3. Mental illness, mental retardation, or other developmental disability that substantially impair the parent's ability to function and:
   a. Places the child at substantial risk of physical or emotional injury; and
   b. No known treatment for the parent exists so that the child may be returned to the parent within twelve (12) months and live safely at home; or
   c. Other circumstances that make continued efforts to preserve or reunify the family inconsistent with the best interests of the child; and
   d. Permanency plan for the child.
(2) A child shall be removed from his home:
(a) if an emergency custody order has been obtained pursuant to KRS 620.080; or
(b) if a temporary custody order has been obtained pursuant to KRS 620.090.
(3) Upon removal of a child from his home:
(a) Placement shall be:
   1. Selected according to the most appropriate and least restrictive alternative pursuant to KRS 620.090; and
   2. Closest in proximity to the child's home pursuant to KRS 199.601.
(b) Cabinet staff shall give priority consideration to placement of the child with a relative pursuant to KRS 620.090 and upon determination that relative placement is in the child's best interest, eligibility for kinship care shall be considered pursuant to KRS 922 KAR 1:140.
(4) An absent parent search shall be conducted by cabinet staff to locate a parent whose whereabouts are unknown.
(5) Within five (5) days of the temporary removal hearing, a treatment plan shall be established pursuant to KRS 620.180 and a plan for permanency shall be developed and documented on the P&P 1292, Family Case Plan, for a child placed under the custodial control of the cabinet.
(6) Concurrent planning shall be considered during development of the permanency plan and documented on the P&P 1292, Family Case Plan. The plan shall identify the permanency goal pursuant to Section 4 of this administrative regulation.

Section 4. Permanency Goals. (1) A permanency goal for a child under the custodial control of the cabinet shall be established according to the particular needs and best interests of the child.
(2) An approved permanency goal shall include one (1) of the following:
(a) Return to parent;
(b) Adoption;
(c) Permanent relative placement;
(d) Legal guardianship;
(e) Planned permanent living arrangement;
(f) Emancipation.

Section 5. Return to Parent. (1) A child under the custodial control of the cabinet shall be returned to the parent when the home has been determined safe and reunification has been determined to be in the best interest of the child;
(2) An alternative goal as identified in Section 4 of this administrative regulation shall be selected when:
(a) A family does not make progress toward achieving the objectives specified in the Family Case Plan established pursuant to Section 3(5) of this administrative regulation; or
(b) Reasonable efforts shall not be required as identified in Section 3(1)(b) of this administrative regulation.

Section 6. Adoption. (1) The permanency goal for a child under the custodial control of the cabinet shall be adoption when:
(a) The parent refuses voluntary termination of parental rights; or
(b) Return to the parent is not in the child's best interest and the cabinet pursues involuntary termination of parental rights pursuant to KRS 625.090.
(2) An exception for proceeding with termination of parental rights may be requested by the cabinet when
(a) Relative placement has been secured;
(b) A compelling reason;
1. Has been documented in the Family Case Plan that termination
of parental rights is not in the best interests of the child; and
2. Is continually monitored to assess validity; or
(c) Services deemed necessary for reunification with the parent have not been provided to the family of the child within the time period specified in the Family Case Plan.
(3) Cabinet staff shall consider involuntary termination of parental rights at the twelve (12) month permanency hearing.
(4) If a determination is made during the twelve (12) month permanency hearing that prohibits termination of parental rights from being in the best interest of the child:
(a) Documentation to support the determination shall be included in the Family Case Plan; and
(b) Termination of parental rights shall be considered at each subsequent hearing.

Section 7. Permanent Relative Placement. Permanent relative placement shall be requested pursuant to KRS 620.027 for a child under the custodial control of the cabinet when:
(1) Return to the parent is not in the child’s best interest; and
(2) The relative is not able to pursue other permanent custody options.

Section 8. Legal Guardianship. (1) The permanency goal for a child under the custodial control of the cabinet shall be guardianship pursuant to 2000 Ky Acts ch. 60 when reunification with the parent and adoption is not in the child’s best interest.
(2) Legal guardianship shall be requested pursuant to 2000 Ky Acts ch. 60.

Section 9. Planned Permanent Living Arrangement. (1) The permanency goal for a child under the custodial control of the cabinet shall be a planned permanent living arrangement when:
(a) An effort has been made to place the child for adoption or with a relative and the child has been placed on a national adoption register;
(b) Other permanency goal options have been considered and are not appropriate due to the specific circumstances of the child;
(c) The cabinet has reviewed documentation that a goal of planned permanent living arrangement is in the best interests of the child;
(d) The court has determined that it would be in the best interests of the child to be placed in a planned permanent living arrangement; or
(e) The child has formed psychological ties with those with whom he lives and adoption and guardianship have been discussed with the care provider and are not appropriate or viable alternatives.
(2) Approval must be obtained from the commissioner’s office of the appropriate permanent living arrangement as a permanency goal for a child:
(a) Under the age of sixteen (16); or
(b) Placed with a private child caring agency.

Section 10. Emancipation. (1) The permanency goal for a child under the custodial control of the cabinet shall be emancipation when:
(a) The youth is age sixteen (16) or older; and
(b) Other permanency options have been considered and are not appropriate due to the specific circumstances of the child.
(2) Upon establishment of emancipation as a permanency goal, the youth shall be referred to the cabinet administered independent living program.

Section 11. Permanency Services. (1) The cabinet shall provide services for a child under the custodial control of the cabinet so that permanency may be achieved.
(2) Permanency services may include:
(a) Ongoing case work and monitoring of the family to:
1. Maintain the child safely in his home; and
2. Ensure safe return of the child if the goal is reunification;
(b) Adoption assistance pursuant to 922 KAR 1:050;
(c) Postfinalization adoption assistance when adoption assistance has not been previously approved if
1. A finalized adoption is near dissolution due to the need for extraordinary medical care;
2. The child was placed for adoption by the cabinet;
3. The adoptive parent has made a reasonable effort to meet the needs of the child without assistance; and
4. The child is under eighteen (18) years of age; or
(d) Referral to other cabinet and community resources necessary for the achievement or maintenance of the child’s permanency goal.

(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. [Goal Achievement. Activities directed at the achievement of this goal may include:]
1. Supportive services to the child and family to prevent or eliminate the need for removal of the child;
2. Attempting to place the child in close proximity to the family and in the least restrictive setting;
3. Implementing case plan and case review procedures that periodically assess the appropriateness of the child’s placement and reevaluate the services provided to assist the child and family;
4. Providing supportive services to the family to make it possible for the child to return home; and
5. At the end of six (6) months in foster care to formulate a permanent plan for the child.

DIETRA PARIS, Commissioner
HIREN DESAI, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: July 26, 2000
FILED WITH LRC: July 26, 2000 at 10 a.m.

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 retains the goal in which the maximum number of children who may remain in foster care in excess of 24 months is established; clarifies when the provision of reasonable efforts to reunify a child with a parent or prevent removal of a child from his parent or guardian is unnecessary; requires concurrent planning to be considered during development of the child’s case treatment plan; describes each permanency goal that may be approved for a child under the custodial control of the cabinet; permits the cabinet to provide services for a child under the custodial control of the cabinet so that permanency may be achieved; and incorporates by reference the P&P-1282, "Family Case Plan."
(b) The necessity of this administrative regulation: The necessity of this administrative regulation shall be to ensure that:
1. The maximum number of children in foster care who remain in foster care for more than 24 months is established pursuant to KRS 199.467; and
2. The process of reviewing the status of a child and those services necessary to best meet the needs of a child placed in out-of-home care are met pursuant to KRS 620.160.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation identifies the actual maximum number of children who can remain in foster care for more than 24 months and specifies that a plan for permanency be developed during the temporary removal hearing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The current administrative regulation assists administration of the statutes by identifying the actual maximum number of children who can remain in foster care for more than 24 months and identifies the permanency goals for a child placed in out-of-home care.
(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 amended administrative regulation will clarify when the provision of reasonable efforts to reunify a child with a parent or
prevent removal of a child from his parent or guardian is unnecessary; requires concurrent planning to be considered during development of the child's case treatment plan; describes each permanency goal that may be approved for a child under the custodial control of the cabinet; permits the cabinet to provide services for a child under the custodial control of the cabinet so that permanency may be achieved; and incorporates by reference the P&P-1282, "Family Case Plan."

(b) The necessity of the amendment to this administrative regulation: The necessity of this administrative regulation shall be to ensure that:

1. The maximum number of children in foster care who can remain in foster care for more than 24 months is established pursuant to KRS 199.467; and

2. The process of reviewing the status of a child and those services necessary to best meet the needs of a child placed in out-of-home care are met pursuant to KRS 620.180.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation identifies the actual maximum number of children who can remain in foster care for more than 24 months and specifies that a plan for permanency be developed after the temporary removal hearing.

(d) How the amendment will assist in the effective administration of the statutes: The current administrative regulation assists administration of the statutes by identifying the actual maximum number of children who can remain in foster care for more than 24 months and identifies the permanency goals for a child placed in out-of-home care.

(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 out-of-home care. The total number of children placed as of 3/26/00 is 5,778.

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: Each child who requires out-of-home care shall benefit from the cabinet's emphasis on providing services necessary to establish a permanent placement for the child.

5. Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: First year: None

(b) On a continuing basis: Continuing cost or savings: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None

(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: Not applicable.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering is not required as these policies will become effective statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 620-628, 672, 673.

2. State compliance standards. In order to comply with the requirements of the above referenced mandate, as well as KRS 199.467, 199.472, 199.801, 620.020, 620.090, 620.090, 620.180, and 2000 Ky. Acts ch. 60, this administrative regulation: clarifies when the provision of reasonable efforts to prevent removal of a child from his parent or guardian is unnecessary; requires concurrent planning to be considered during development of the child's case treatment plan; describes each permanency goal that may be approved for a child under the custodial control of the cabinet; permits the cabinet to provide services for a child under the custodial control of the cabinet so that permanency may be achieved; and retains the established goal for the maximum number of children who may remain in foster care for excess of 24 months.

3. Minimum or uniform standards contained in the federal mandate. Pursuant to 42 USC 620-628, 672, 673, this administrative regulation: establishes permanency services to help return children to families from which they have been removed; or be placed for adop-
KENTUCKY BOARD OF NURSING
(Amendment)

201 KAR 20:055. Advanced registered nurse practitioner registration, program requirements, recognition of a national certifying organization.

RELATES TO: KRS 314.011(8), 314.042, 314.091, 314.161
STATUTORY AUTHORITY: KRS 314.042(7), 314.131(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.042 requires the registration of advanced registered nurse practitioner. This administrative regulation establishes the requirements for registration, renewal, and reinstatement; programs, and recognition of a national certifying organization.

Section 1. An applicant for registration as an advanced registered nurse practitioner in Kentucky shall:
(1) Complete an "Application for Registration as an Advanced Registered Nurse Practitioner in Kentucky"; and
(2) Comply with the requirements established in KRS 314.042 and this administrative regulation.

Section 2. Postbasic Program of Study and Clinical Experience. An organized postbasic program of study and clinical experience shall conform to the following criteria in order to be acceptable to the board:
(1) Be an established, ongoing and organized program offered on a routine basis to an enrollee;
(2)(a) Except as provided in paragraph (b) of this subsection, be accredited or approved for the education of nurses by a recognized accreditation or approval body; or
(b) The sponsoring organization shall hold such accreditation or approval for the education of nurses by a recognized accreditation or approval body;
(3) Have a program design which prepares an enrollee to function in a role consistent with the advanced registered nurse practice specialty designation;
(4) Have a program design which includes purpose, philosophy, objectives, curriculum content, and plan to evaluate achievement of objectives and measurement of learning outcomes of students;
(5) Have a designated faculty responsible for planning, development, implementation, and evaluation of curriculum and students;
(6) Include didactic components;
(7) Include a supervised clinical experience;
(8) Upon successful completion, award a diploma or certificate;
[and]
(9)(a) Except as provided in paragraph (b) of this subsection, extend over an enrollment period of not less than nine (9) months.
(b) An organized postbasic program of study and clinical experience with an enrollment period of less than nine (9) months shall be evaluated by the board on an individual basis to determine if the program is acceptable to the board by sufficiently preparing a student for advanced registered nurse practice;
(10) If the applicant for registration as an advanced registered nurse practitioner completes a postbasic program of study after January 1, 2005, then the applicant shall hold a master's degree or post-master's certificate related to the advanced registered nurse practitioner designation.

Section 3. National Certifying Organizations. (1) A nationally established organization or agency which certifies registered nurses for advanced nursing practice shall be recognized by the board if it meets the following criteria:
(a) The certifying body is an established national nursing organization or a subdivision thereof;
(b) Eligibility requirements for certification are delineated;
(c) Certification is offered in specialty areas of clinical practice;
(d) Scope and standards of practice statements are promulgated; and
(e) Mechanism for determining continuing competency is established.

(2) The board shall maintain a list of recognized national certifying organizations.

Section 4. Practice Pending Registration. (1) An applicant who meets all the requirements for practice as an advanced registered nurse practitioner except for certification by a national certifying organization shall be authorized to practice as an advanced registered nurse practitioner subject to the following conditions:
(a) The applicant shall apply for certification from a recognized national certifying organization for the first time;
(b) The applicant shall obtain an advanced registered nurse practitioner of the same specialty, or a licensed physician, to supervise the applicant. For the purposes of this paragraph:
1. Supervision shall include, at a minimum, periodic observation and evaluation of the applicant's practice to validate that the practice has been performed according to established standards; and
2. The supervisor shall be immediately available either on site or by telephone;
(c) The applicant shall verify to the board that he has applied for certification and has obtained a supervisor;
(d) Practice pursuant to this subsection shall extend until the applicant has completed the request for certification.
(e) An applicant who has previously applied for and been denied certification by a recognized national certifying organization shall be ineligible to practice as an advanced registered nurse practitioner until he has been certified.
(2) A registered nurse who meets all the requirements for practice as an advanced registered nurse practitioner and who holds a registered nurse temporary work permit issued pursuant to 201 KAR 20:090 pending licensure by endorsement shall be authorized to practice as an advanced registered nurse practitioner for a period of time not to exceed the expiration date of the temporary work permit.
(3) Authorization to practice pursuant to subsections (1) or (2) of this section shall be in the form of a letter from the board acknowledging that the applicant has met all the requirements of this section. An applicant shall not practice until the authorization letter has been issued.
(4) An individual authorized to practice pursuant to subsection (1) of this section may use the title "ARNP Applicant" or "ARNP App."

Section 5. Registration Renewal. (1) The advanced registered nurse practitioner registration shall expire on or lapse at the time the registered nurse license expires or lapses.
(2) To be eligible for renewal of registration as an advanced registered nurse practitioner, the applicant shall:
(a) Renew the registered nurse license on an active status;
(b) Submit a completed "ARNP Registration Renewal Application" form;
(c) Submit the current renewal application fee, as established in 201 KAR 20:240, Section 1(2)(b); and
(d) Maintain current certification by a recognized national certifying organization.
(3) An advanced registered nurse practitioner who fails to renew the registered nurse license or is issued a license on an inactive status shall not practice as or use the title of advanced registered nurse practitioner until:
(a) A current active license has been issued by the board; and
(b) The advanced registered nurse practitioner registration has been reinstated.

Section 6. Registration Reinstatement. (1) If a nurse fails to renew the advanced registered nurse practitioner registration as prescribed by applicable law and administrative regulation, the registration shall lapse on the last day of the licensure period.
(2) To be eligible for reinstatement of advanced registered nurse practitioner registration, the applicant shall:
(a) Submit a completed "Reinstatement Application for Registration as an Advanced Registered Nurse Practitioner" form;
(b) Submit the current reinstatement application fee, as established in 201 KAR 20:240, Section 1(2)(b); and
(c) Maintain current certification by a recognized national certifying organization.

Section 7. Certification or Recertification. (1) An advanced registered nurse practitioner who has met the requirements and has applied for current, active recertification by one (1) of the national organizations recognized in Section 3 of this administrative regulation may practice as an advanced registered nurse practitioner until the results of the recertification have been received.

(2) A nurse who fails to attain current, active certification or recertification from one (1) of the national organizations recognized in Section 3 of this administrative regulation shall not:

(a) Be registered as an advanced registered nurse practitioner; and

(b) Practice or use the title of advanced registered nurse practitioner until the requirements of this administrative regulation have been met.

(3) An advanced registered nurse practitioner who is decertified by the appropriate national organization shall:

(a) Notify the board of that fact; and

(b) Not practice as or use the title of advanced registered nurse practitioner during the period of decertification.

Section 8. (1) An application shall be valid for a period of one (1) year from date of submission to board.

(2) After one (1) year from the date of application, the applicant shall be required to reapply.

Section 9. The requirements of this administrative regulation shall not prohibit the supervised practice of a nurse enrolled in:

(1) A postbasic educational program for preparation for advanced registered nursing practice; or

(2) An advanced registered nurse practitioner refresher course.

Section 10. A registered nurse who holds himself out as a clinical specialist or is known as a clinical specialist, shall be required to register as an advanced registered nurse practitioner if his practice includes the performance of advanced registered nursing procedures.

Section 11. A nurse practicing as an advanced registered nurse practitioner who is not registered as an advanced registered nurse practitioner by the board, an advanced registered nurse practitioner whose practice is inconsistent with the specialty to which he has been designated, or an advanced registered nurse practitioner who does not recertify and continues to practice as an advanced registered nurse practitioner shall be subject to the disciplinary procedures set in KRS 314.091.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Registration as an Advanced Registered Nurse Practitioner in Kentucky", 6/63, Kentucky Board of Nursing;

(b) "ARNP Registration Renewal Application", 3/89, Kentucky Board of Nursing;

(c) "Reinstatement Application for Registration as an Advanced Registered Nurse Practitioner", 9/86, Kentucky Board of Nursing; and

(d) "Approved ARNP Certification Organizations", May 1994, Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 10, 2000 at noon
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7009, Fax: (502) 329-6206, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation adds a requirement for applicants applying after 2005 that they have at least a master’s degree in the appropriate field of study.

(b) The necessity of the administrative regulation: This administrative regulation is necessary in order to assure uniform educational requirements.

(c) How this administrative regulation conforms to the content of the authorizing statute: The Board of Nursing is authorized by statute to set educational standards for ARNPs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It will set uniform educational standards for ARNPs.

(e) 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: It will add a requirement for applicants applying after 2005 that they have at least a master’s degree in the appropriate field of study.

(b) The necessity of the amendment to this administrative regulation: It is necessary in order to assure uniform educational requirements.

(c) How the amendment conforms to the content of the authorizing statute: The Board of Nursing is authorized by statute to set educational standards for ARNPs.

(d) How the amendment will assist in the effective administration of the statutes: It will set uniform educational requirements for ARNPs.

(2) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Advanced registered nurse practitioner (ARNP) applicants, number unknown.

(3) 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: It will require ARNP applicants to have at least a master’s degree in the appropriate field of study.

(4) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.

(b) On a continuing basis: None

(5) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.

(6) 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 to implement this administrative regulation.

(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(8) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.
201 KAR 20:057. Scope and standards of practice of advanced registered nurse practitioners.

RELATES TO: KRS 314.011(7), 314.042, 314.193(2)
STATUTORY AUTHORITY: KRS 314.131(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.193(2) requires that standards in the performance of advanced registered nursing practice be established by administrative regulation to safeguard the public health and welfare. This administrative regulation establishes the scope and standards of practice for an advanced registered nurse practitioner.

Section 1. Definitions. (1) "Collaboration" means the relationship between the advanced registered nurse practitioner and a physician in the provision of prescription medication and includes both autonomous and cooperative decision-making, with the advanced registered nurse practitioner and the physician contributing their respective expertise.

(2) "Collaborative practice agreement" means a written document which defines the scope of prescriptive authority for the advanced registered nurse practitioner and is jointly approved by the advanced registered nurse practitioner and at least one (1) physician.

(3) "Established protocol" means a written document jointly approved by the physician and the advanced registered nurse practitioner delineating the areas of practice for the advanced registered nurse practitioner, which is reviewed at least annually.

Section 2. The practice of the advanced registered nurse practitioner shall be in accordance with the standards and functions defined in the following scope and standards of practice statements for each specialty area. [A limitation beyond the scope and standards of practice statement shall be stated in the established protocol]

(1) American Nurses' Association, The Scope of Practice of the Primary Health Care Nurse Practitioner, 1985, Standards of Practice for the Primary Health Care Nurse Practitioner, 1987;
(3) American Nurses' Association, Statement on the Scope of Medical-Surgical Nursing Practice, 1980;
(4) American Nurses' Association, The Role of the Clinical Nurse Specialist, 1986;
(6) American College of Nurse-Midwives, Standards for the Practice of Nurse-Midwifery, 1993;
(8) National Association of Nurse Practitioners in Reproductive Health, Standards of Practice and Education for the Women's Health Nurse Practitioner, 1994;
(9) National Association of Pediatric Nurse Associates and Practitioners, Scope of Practice for Pediatric Nurse Practitioners, 1990, Standards of Practice for Pediatric Nurse Practitioners, 1997;
(10) American Academy of Nurse Practitioners, Standards of Practice, 1993 and Scope of Practice for Nurse Practitioners, 1993;
(11) American Nurses' Association/American Association of Critical Care Nurses, Standards of Clinical Practice and Scope of Practice for the Acute Care Nurse Practitioner, 1995;

Section 3. In the performance of advanced registered nursing practice, the advanced registered nurse practitioner shall practice in accordance with [established-protocol-and] the collaborative practice agreement, if applicable, and shall seek consultation or referral in those situations outside the advanced registered nurse practitioner's scope of practice.

Section 4. Advanced registered nursing practice shall include prescribing treatments, drugs and devices and ordering diagnostic tests which are consistent with the scope and standard of practice of the advanced registered nurse practitioner.

Section 5. Advanced registered nursing practice shall not preclude the practice by the advanced registered nurse practitioner of registered nursing practice as defined in KRS 314.011(5).

Section 6. An advanced registered nurse practitioner who has a written collaborative practice agreement pursuant to KRS 314.042(8) shall file a copy of it with the board within thirty (30) days of entering it. The agreement shall include the name, address, phone number and license or registration number of both the advanced registered nurse practitioner and each physician who is a party to the agreement. It shall also include the specialty area of practice of the advanced registered nurse practitioner. A change in the collaborative agreement shall be reported to the board within thirty (30) days.

Section 7. Prescribing without a written collaborative practice agreement shall constitute a violation of KRS 314.091(1).

Section 8. The board may make an announced monitoring visit to an advanced registered nurse practitioner to determine if the advanced registered nurse practitioner's practice is consistent with all regulatory requirements.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:
   (a) "The Scope of Practice of the Primary Health Care Nurse Practitioner", 1985 Edition, American Nurses' Association;
   (b) "Standards of Practice for the Primary Health Care Nurse Practitioner", 1987 Edition, American Nurses' Association;
   (d) "Statement on the Scope of Medical-Surgical Nursing Practice", 1980 Edition, American Nurses' Association;
   (l) "Scope of Practice for Pediatric Nurse Practitioners", 1990 Edition, National Association of Pediatric Nurse Practitioners and Practitioners;
   (m) "Standards of Practice for Pediatric Nurse Practitioners", 1987 Edition, National Association of Pediatric Nurse Practitioners and Practitioners;
   (p) "Standards of Clinical Practice and Scope of Practice for the Acute Care Nurse Practitioner", 1995 Edition, American Nurses' Association/American Association of Critical Care Nurses; and
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

JUNE BELL, President
APPROVED BY AGENCY: June 10, 2000
FILED WITH LRC: August 10, 2000 at noon
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Ken- tucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Ken- tucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louis- ville, Kentucky 40223, Tel: (502) 329-7009, Fax: (502) 329-8206, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets the scope and standards of practice for ARNP.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 314.011 and 314.042.
(c) How this administrative regulation conforms to the content of the authorizing statute: It sets certain requirements mandated by statute, including the recognition of certain scopes and standards of practice.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets scope and standards of practice for ARNP.
(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: It will eliminate the requirement for an established protocol and updates certain published scopes and standards of practice.
(b) The necessity of the amendment to this administrative regulation: The need for an established protocol was eliminated by legislation passed in 1996. The national organization has updated certain published scopes and standards of practice for nurse anesthetists.
(c) How the amendment conforms to the content of the authorizing statute: Established protocols are not required by statute.
(d) How the amendment will assist in the effective administration of the statutes: By complying with the statutes and by updating the affected scope and standards of practice.
(3) List the type and number of individuals, businesses, organiza- tions, or state and local governments affected by this administrative regulation: All ARNP. At this time there are approximately 2000 in Kentucky.
(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: ARNP will no longer need to have an established protocol. Nurse anesthetists will practice in accordance with the current standards.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation.
(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implemen- tation and enforcement of this administrative regulation: Agency general funds.
(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 to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fee.
(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

KENTUCKY BOARD OF NURSING
(AMENDMENT)

201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 314.041(1), (2), 314.051(3)
STATUTORY AUTHORITY: KRS 314.041(1), (2), 314.051(3), 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(2) requires an applicant for licensure as a registered nurse to pass an examination prescribed by the board. KRS 314.051(3) requires an applicant for licensure as a licensed practical nurse to pass an examination prescribed by the board. KRS 314.131(1) authorizes the board to promulgate administrative regulations to implement the provisions of KRS Chapter 314. This administrative regulation establishes the requirements for the licensure of nurses by examination.

Section 1. Eligibility for Licensure by Examination for a Graduate of a Kentucky Program or Other State or Territorial Nursing Program.

(1) To be eligible for licensure by examination an applicant shall:
(a) Submit:
1. A properly executed application for licensure, as required by 201 KAR 20:370, Section 1(1);
2. The licensure application fee as established in 201 KAR 20:240; and
3. One (1) current passport type photograph;
(b) Submit a certified copy of the court record of each misde- meanor or felony conviction and a letter of explanation that addresses each conviction;
(c) Notify the board as soon as a new address is established after submitting the application;
(d) Submit a copy of a marriage certificate or court order to change the applicant’s name, if the applicant’s name is changed after the original application is filed;
(e) When taking the examination, abide by and cooperate with security procedures adopted by the board;
(f) Apply to take and pass the National Council Licensure Examina- tion; and
(g) Meet the requirements for completion of an educational course on the human immunodeficiency virus and acquired immunodeficiency syndrome, as required by KRS 214.615 and 302 KAR 2:150.
(2) An application for licensure shall be valid for a period of one (1) year from the date the application is filed with the board office. This requirement shall apply to each application received by this board after the effective date of this administrative regulation and each appli- cation pending on the effective date.
(3) The name of the applicant shall appear on the "Certified List of Program of Nursing Graduates" as established in 201 KAR 20:260 or the applicant shall request that the program submit to the board an official transcript verifying completion of program requirements.
(4) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 194A.540.

Section 2. Graduates of Foreign Nursing Schools. To be eligible for application for licensure by examination, a graduate of a foreign nursing school shall comply with the provisions of this section.

(1) If licensed in another country, or in a jurisdiction or territory...
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

governed by the United States, the applicant shall submit a statement from the licensing authority that the:
(a) Applicant is a licensee in good standing;
(b) License has not been revoked, suspended, or probated; and
(c) Licensee has not been suspended or otherwise disciplined in the licensing country.

(2) An applicant shall maintain proof of legal permanent or temporary residency under the laws and regulations of the United States.

(3) An applicant shall meet the requirements of Section 1 of this administrative regulation.

(4) Credentials in a foreign language shall be translated at the applicant’s expense by an official translation agency or approved college or university.

Section 3. Retaking the Examination. (1) An examination candidate who fails to achieve a passing result may retake the examination after meeting the requirements of Section 1 of this administrative regulation.

(2) The applicant shall not be eligible to take the examination more often than once every ninety-one (91) days.

Section 4. Release of Examination Scores. The board shall release examination results to:
(1) The candidate;
(2) Other state boards of nursing;
(3) The National Council of State Boards of Nursing, Inc.; and
(4) An individual or agency who submits an applicant’s or licensee’s written authorization for their release.

Section 5. Incorporation By Reference. (1) “Certified List of Program of Nursing Graduates”, (2/96), Kentucky Board of Nursing, is incorporated by reference.

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

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 8, 2000 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louis ville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentuck y Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7005, Fax: (502) 329-8206, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does; This administrative regulation sets out the requirements for licensure by examination.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.
(c) How this administrative regulation conforms to the content of the authorizing statute: It provides the specifics for licensure by examination.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the specifics for licensure by examination.

(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: It adds the domestic violence education requirement pursuant to KRS 194A.540.
(b) The necessity of the amendment to this administrative regulation: To clarify for applicants that they must have obtained domestic violence education.
(c) How the amendment conforms to the content of the authorizing statute: KRS 194A.540 requires this provision.
(d) How the amendment will assist in the effective administration of the statutes: By clarifying for applicants the specific statutory requirement.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All applicants for licensure by examination, number unknown.

(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: All applicants for licensure by examination must obtain domestic violence education.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation.
(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.

(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 to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fee.

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

KENTUCKY BOARD OF NURSING
( Amendment)

201 KAR 20:095. Inactive nurse licensure status.

RELATES TO: KRS 314.041(7), 314.051(7)
STATUTORY AUTHORITY: KRS 314.131(1)
NECESSITY, FUNCTION, AND CONFORMITY: To provide for administration of requirements for obtaining and maintaining inactive licensure status, and to establish requirements for changing licensure status from inactive to active.

Section 1. An individual may apply for inactive status in Kentucky by meeting the following requirements:
(1) Complete application.
(2) Pay current application fee for inactive status.
(3) Hold or have held Kentucky nurse licensure.
(4) Submit copy of an official name change document (court order, marriage certificate, divorce decree), if applicable.

Section 2. An individual who has been granted inactive status shall receive a license with such inactive status designated on the face of the license.

Section 3. An individual holding inactive licensure status for less than five (5) years from the date of the last active license who wishes to apply for active licensure may do so by meeting the following requirements:
(1) Complete an active status application.
(2) Pay current application fee for change of licensure status from...
inactive to active.

(3) Complete thirty (30) hours of continuing education.

Section 4. An individual holding an active nurse license issued by another jurisdiction and who has held Kentucky inactive licensure status for less than five (5) years who wishes to apply for active licensure must complete an active status application, pay current application fee for an active license, and show evidence of one (1) of the following before an active license will be issued:

(1) Licensure in another jurisdiction and active nursing practice of at least 500 hours within the preceding five (5) years in that jurisdiction;

or

(2) Completion of thirty (30) hours of continuing education.

Section 5. If an individual has held inactive licensure status in Kentucky for five (5) or more years from the date of the last active license, she shall complete an active status application, pay current application fee for an active license, and show evidence of:

(1) Licensure in another jurisdiction and active nursing practice of at least 500 hours within the preceding five (5) years in that jurisdiction;

or

(2) For applications for active status licensure filed on or after January 1, 1989, completion of fifteen (15) contact hours of continuing education for each year since the last year of active licensure, with a minimum of thirty (30) contact hours to a maximum of 150 contact hours. For applications completed prior to July 1 of the second year of the licensure period for the license requested, thirty (30) hours of continuing education shall have been earned no earlier than November 1 of the earning period corresponding with the current licensure period. For applications completed after July 1 of the second year of the licensure period for the license requested, thirty (30) hours of continuing education shall have been earned no earlier than November 1 of the current licensure period. Continuing education earned more than ten (10) years preceding the date of application shall not be counted toward meeting this requirement.

Section 6. For individuals who change licensure status from inactive to active during the last ten (10) months of a biennial contact hour earning period, contact hour earning which meets or exceeds the contact hour requirement for the upcoming licensure renewal may be accepted as evidence of earning for both current and upcoming licensure periods.

Section 7. An individual who has been granted inactive status in Kentucky is prohibited from being employed in this state as a registered nurse or licensed practical nurse or from functioning in the capacity of a nurse while maintaining the inactive status. An individual who is employed or who practices as a nurse in this state while on inactive status shall be considered to be practicing without a license and in violation of KRS 314.031 and subject to the penalties in KRS Chapter 314.

Section 8. Individuals changing licensure status (reates) from inactive to active during the first licensure period following issuance of a license by either examination or endorsement do not lose the continuing education exemption of KRS 314.073(1).

Section 9. An individual who was licensed on or after July 15, 1988, and who changes licensure status from inactive to active shall provide evidence of having earned three (3) hours of continuing education in domestic violence as required by KRS 194A.540. This requirement shall apply to an individual one (1) time only. Once earned, it shall not apply to any subsequent change of status.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 8, 2000 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notice 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7009, Fax: (502) 329-8206, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets out the requirements to hold an inactive nursing license.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.
(c) How this administrative regulation conforms to the content of the underlying statute: It provides the specifics for obtaining or changing an inactive license.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the specifics for an inactive license.
(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: It adds the domestic violence education requirement pursuant to KRS 194A.540 as a condition for changing from inactive status to active.
(b) The necessity of the amendment to this administrative regulation: To clarify for licensees that they must have obtained domestic violence education to change to active status.
(c) How the amendment conforms to the content of the underlying statute: KRS 194A.540 requires this provision.
(d) How the amendment will assist in the effective administration of the statutes: By clarifying for licensees the specific statutory requirement.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All inactive licensees, approximately 5000.
(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: All inactive licensees who change status to active must obtain domestic violence education.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation.
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.
(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 to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.
KENTUCKY BOARD OF NURSING
(Amendment)

201 KAR 20:110. Licensure by endorsement.


STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(4) and 314.051(5) authorize the board to issue a license to practice nursing as a registered nurse or a licensed practical nurse to an applicant who has passed the required examination or its equivalent and who was licensed to practice nursing in another jurisdiction. KRS 314.101(4) authorizes the board to issue a temporary work permit to a person who has completed the requirements for, applied for, and paid the fee for licensure by examination or endorsement. This administrative regulation establishes the requirements for licensure by endorsement and establishes the requirements for a temporary work permit for an applicant to practice nursing while the application for a license is being processed.

Section 1. Eligibility for Licensure by Endorsement. (1) To be eligible for licensure by endorsement, an applicant shall:

(a) Have completed a state approved program of practical nursing for licensed practical nurse licensure or a state approved program of registered nursing for registered nurse licensure equivalent to Kentucky requirements;

(b) Have taken the State Board Test Pool Examination or National Council Licensure Examination or an examination that is consistent with Section 5 of this administrative regulation;

(c) Have and submit a copy of a current active license to practice nursing in another U.S. jurisdiction, territory, or foreign country;

(d) Complete the application form, as required by 201 KAR 20:370, Section 1(1);

(e) Submit one (1) current passport type photograph;

(f) Submit the current fee for a licensure application, as established by 201 KAR 20:240;

(g) Report each disciplinary action taken or pending on a license by another jurisdiction;

(h) Submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction;

(i) Request the U.S. jurisdiction or territory or foreign country of initial licensure to submit a verification of licensure by examination to the board which shall include the following information:

1. Date of initial licensure;

2. Examination results;

3. Name of the program of nursing completed and date of graduation;

4. A statement that the applicant's license has not been revoked, suspended, limited, probated or otherwise disciplined by the licensing authority and is not subject to disciplinary action; and

(j) Meet the requirement for completion of an educational course on the human immunodeficiency virus and acquired immunodeficiency syndrome, as required by KRS 214.615 and 902 KAR 2:150.

(2) An application shall be valid for a period of six (6) months. The applicant shall:

(a) Submit a copy of a marriage certificate or court order to change the applicant's name after the original application is filed; and

(b) Notify the board in writing as soon as a new address is established after submitting the application.

(3) After six (6) months, the applicant shall:

(a) Submit a new application;

(b) Submit the current licensure application fee; and

(c) Meet the requirements established in this section.

(4) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 194A.540.

Section 2. Graduates of Foreign Nursing Schools. (1) A graduate of a foreign nursing school shall:

(a) Meet the requirements established in Section 1 of this administrative regulation; and

(b) Submit an official transcript of the nursing program.

(2) A graduate of a foreign nursing school who is not a citizen of the United States shall maintain evidence of legal permanent or temporary residency in the United States.

(3) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

Section 3. Nursing Practice and Continuing Education Requirements. (1) Except as provided in subsection (2) of this section, an applicant shall complete fifteen (15) contact hours in continuing education for each year since the last year in which the applicant can demonstrate at least 100 hours of practice.

(2) The requirement established in subsection (1) of this section shall not apply to an applicant who:

(a) Has been licensed for less than five (5) years from the date of initial licensure; or

(b) Has been actively licensed and engaged in nursing practice for at least 500 hours during the preceding five (5) years; and

2. Submits evidence that verifies this practice.

(3) An applicant shall not be required to complete more than 150 contact hours in continuing education, if at least thirty (30) contact hours were earned within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.

(4) Continuing education earned more than ten (10) years preceding the date of application shall not be counted toward meeting the requirements established in subsections (1) and (2) of this section.

Section 4. Temporary Work Permit. (1) An applicant for licensure by endorsement who meets the requirements of Section 1(1)(a) through (h) of this administrative regulation shall be issued a temporary work permit.

(2) A temporary work permit shall be valid for a period not to exceed six (6) months.

(3) An individual who practices as a nurse in this state without a current temporary work permit prior to issuance of a current active license shall be considered to be practicing without a license in violation of KRS 314.031 and subject to the penalties listed in KRS Chapter 314.

Section 5. Licensure Examination Standards. An applicant who has taken an examination other than the State Board Test Pool Examination, the National Council Licensure Examination, or the Canadian Nurses Association Testing Service Examination (in English) shall provide evidence to the board that the examination met the following standards of equivalency:

(1) Accepted psychometric procedures are used in the development of the examination;

(2) The examination is available to the board in the English language;

(3) The examination test plan blueprint is available for board review and adequately identifies test content and content weighting;

(4) Test items are available for board review and demonstrate the testing of competency necessary for safe practice;

(5) At least one (1) of the reliability estimates for the examination is 0.60 or higher;

(6) The examination is revised after each administration to insure currency and security of content; and

(7) The examination is given under strict security measures.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 8, 2000 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on 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 contract person:

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7009, Fax: (502) 329-8205, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets out the requirements for licensure by endorsement.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.
(c) How this administrative regulation conforms to the content of the authorizing statute: It provides the specifics for licensure by endorsement.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the specifics for licensure by 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: It adds the domestic violence education requirement pursuant to KRS 194A.540.
(b) The necessity of the amendment to this administrative regulation: To clarify for applicants for licensure that they must obtain domestic violence education.
(c) How the amendment conforms to the content of the authorizing statute: KRS 194A.540 requires this provision.
(d) How the amendment will assist in the effective administration of the statutes: By clarifying for applicants the specific statutory requirement.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All applicants for licensure by endorsement, number unknown.
(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: All applicants for licensure by endorsement must obtain domestic violence education.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation.
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.
(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 to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fee or directly or indirectly increases any fee: This administrative regulation does not establish fees or directly or indirectly increase any fee.

TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

KENTUCKY BOARD OF NURSING (Amendment)

201 KAR 20:215. Contact hours, recordkeeping and reporting requirements for renewal of licensure.

RELATES TO: KRS 314.311(12), 314.073, 314.991(1) to (3)
STATUTORY AUTHORITY: KRS 314.073, 314.131(1), (2), 314.991(1) to (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1), (2), and 314.073 provide that the board shall establish continuing education requirements for nurses. This administrative regulation establishes the fees, procedures, and requirements for continuing education for nurses.

Section 1. Definition. (1) “Earning period” means November 1 through October 31 of a current licensure period.
(2) “Contact hour” means fifty (50) minutes of an approved, organized learning experience.

Section 2. (1) A licensee shall choose a method from Section 3 of this administrative regulation to validate their continued competency in nursing for each earning period.
(2) A licensee shall maintain the documentation of the method chosen.
(3) A licensee shall provide the documentation when directed by the board.

Section 3. Methods for continued competency validation are as follows:
(1) Thirty (30) contact hours of continuing education earned during the licensure period which shall include the continuing education required by Section 5 of this administrative regulation or
(2) Current national certification or recertification in effect during the licensure period related to the nurse’s practice role and the continuing education required by Section 5 of this administrative regulation or
(3) Fifteen (15) contact hours of continuing education earned during the licensure period which shall include the continuing education required by Section 5 of this administrative regulation and at least one (1) of the following during the licensure period:
(a) Completion of a nursing research project as principal investigator, co-investigator or project director,
(b) Publication of a nursing-related article in a refereed professional publication,
(c) A professional nursing presentation,
(d) A nursing employment evaluation that is satisfactory for continued employment or
(e) A successfully completed employment competency validation.

Section 4. (1) A licensee shall provide documentation of the methods used to validate continued competency if the licensee is the subject of a disciplinary complaint.
(2) A licensee shall provide documentation of the methods used to validate continued competency if requested by the board pursuant to a random audit of licensees.

Section 5. (1) A licensee may (shall) complete thirty (30) contact hours of continuing education activities from an approved provider during the earning period.
(2) Registered nurses and licensed practical nurses shall earn a minimum of two (2) contact hours of [the thirty- (30)-hour shall-be-an] HIV/AIDS education [courses] approved by the Cabinet for Health Services pursuant to 902 KAR 2:160.
(3)(a) Partial credit for attendance at a continuing education activity shall not be given.
(b) A licensee who attends continuing education activities, whether as a teacher, participant or student, shall attend the entire offering to be eligible to receive the number of contact hours for which the activity has been approved.
(4) A licensee shall determine whether a continuing education activity is offered by an approved provider.
(5) [For] Advanced registered nurse practitioners shall earn [ ] a...
minimum of five (5) contact hours [of the thirty (30) hours shall be] in pharmacology.

(6) Sexual assault nurse examiners shall earn the continuing education required by 201 KAR 20:411, Section 8.

Section 3. The following categories of programs shall not qualify as approved continuing education activities:

(1) Course content included in prelicensure nursing programs; except for licensed practical nurses enrolled in prelicensure registered nurse programs;
(2) Business meetings or committee meetings of organizations; and
(3) In-service and orientation to specific institutional policies and practices.

Section 6, [4:] 1(a) A licensee shall maintain records to substantiate methods used to validate competency [earned contact hours].

(6) All [Records shall include a certificate furnished by the provider;]

[6] records shall be retained for at least five (5) years following the current licensure [earning] period [in which the contact-hours were earned].

(2)(a) A licensee shall, upon request, furnish to the board or its staff, legible copies of the records required to be maintained by subsection (1) of this section.

(3) Copies shall be furnished within thirty (30) days of the date a written request is mailed by first class to the last known address of the licensee or applicant.

(c) Failure to furnish records as required by this administrative regulation shall be cause for the issuance of a complaint pursuant to 201 KAR 20:161 for failure to comply with KRS 314.073(2).

(3)(a) Except as provided by paragraph (b) of this subsection, if the board determines that a licensee has failed to comply with continuing competency [education] requirements, he shall be allowed to cure the noncompliance if he:

1. Meets continuing competency [education] requirements within ninety (90) days of notification of noncompliance;
2. Enters a consent decree with the board; and
3. Pays a civil penalty imposed by the board pursuant to KRS 314.591.

(b) The board shall issue a complaint pursuant to 201 KAR 20:161 if:

1. A licensee fails to furnish records as requested pursuant to subsection (2) of this section; or
2. There is evidence of fraud or deceit in procuring or attempting to procure a license to practice nursing.

Section 7, [5:] 1(1) Successful completion of a postlicensure academic course at a college, university or postsecondary vocational institution shall qualify as a continuing education activity obtained from an approved provider if they are:

(a) Relevant to nursing practice; and
(b) Not excepted by Section 2 of this administrative regulation.

(2)(e) A copy of the transcript or grade report shall be submitted upon request of the board.

(b) The board may require a description of the course from the school's catalog or institution's files.

(3) Contact hours shall be calculated as follows:
(a) One (1) semester or trimester hour of academic credit shall equal fifteen (15) contact hours.
(b) One (1) quarter hour of academic credit shall equal twelve (12) contact hours.

(4) The following courses shall be relevant to nursing practice:

(a) A nursing course, designated by a nursing course number, and beyond the prelicensure curriculum of the individual licensee.
(b) An academic course that is:
1. Applicable to nursing practice; and
2. Appropriate for the nurse engaged in clinical practice, administration, education, or research; and
3. Beyond the prelicensure curriculum of the individual licensee.

Section 8, [6:] (1) A licensee may request an individual review of a nonapproved continuing education activity completed during the earning period if, within thirty (30) days after the expiration of the immediate past licensure period [earning period], he has:

(a) Requested the review by submitting an "Application for Individual Review";
(b) Paid a fee of ten (10) dollars.

(2) The review shall be based on the standards established by:

(a) This administrative regulation; and
(b) 201 KAR 20:220.

(3) Approval by the board of a nonapproved continuing education activity shall:

(a) Qualify it as having been obtained from an approved provider for the license requesting the review; and
(b) Be limited to the particular offering upon which the request for individual review is based.

Section 9, [7:] Incorporation by Reference. (1) "Application for Individual Review [1992]" is incorporated by reference.

(2) This document may be reviewed, inspected, or copied at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 a.m. to 4:30 p.m.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 8, 2000 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7009, Fax: (502) 329-8206, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does. This administrative regulation sets out the continuing education requirements for licensees.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.
(c) How this administrative regulation conforms to the content of the authorizing statute: It provides the specifics for continuing education.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: It provides the specifics for continuing education.
(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: To add methods for nurses to show continued competency.
(b) The necessity of the amendment to this administrative regulation: HB 676 of the 2000 Regular Session amended KRS 314.073 to change continuing education to continued competency and authorized
the board to develop an administrative regulation to set out methods for showing continued competency. 
(c) How the amendment conforms to the content of the authorizing statute: HB 676 of the 2000 Regular Session amended KRS 314.073. 
(d) How the amendment will assist in the effective administration of the statutes: By specifying the methods a nurse can show continued competency. 
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All nurses with current, active licenses, approximately 60,000. 
(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: Nurses will have more than one method of showing continued competency. Continuing education will be a component of continued competency. 
(5) Provide an estimate of how much it will cost to implement this administrative regulation: 
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation. 
(b) On a continuing basis: None 
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds. 
(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 to implement this administrative regulation. 
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees. 
(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional. 

KENTUCKY BOARD OF NURSING

(Amendment)

201 KAR 20:220. Nursing continuing education provider approval.

RELATES TO: KRS 314.011(12), 314.073, 314.131(11), (12) 
STATUTORY AUTHORITY: KRS 314.131(1), (2) 
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(2) 
and 324.073(3) require the board to establish continuing competency [education] requirements and approve providers of continuing education. This administrative establishes requirements for providers of continuing education. 

Section 1. (1) A provider applicant shall submit an: 
(a) “Application for Provider Approval” and 
(b) Application fee as set forth in 201 KAR 20:240. 
(2) If an application is approved, the board shall issue a provider number to the applicant. 
(3) Provider approval shall initially expire: 
(a) For a health care agency, on June 30 of the next even-numbered year; 
(b) For a nonhealth care agency, on June 30 of the next uneven-numbered year. 
(4) On or before March 30 of the year in which an approval period expires, an approved provider shall submit a: 
(a) “Request for Renewal”; and 
(b) Fee as set forth in 201 KAR 20:240. 
(5) Renewal shall be for two (2) years. 
(6) A provider applicant may establish compliance by submitting evidence of approval by an organization listed in the board’s “List of Recognized Organizations”. 
(7) An organization that approves nursing continuing education may request that it be added to the “List of Recognized Organizations”. 
(b) An organization shall be included in the “List of Recognized Organizations” if the board determines that its standards are compatible to the standards established by the provisions of this administrative regulation. An applicant may establish compliance by submitting evidence of approval by an organization listed in the board’s “List of Approved Organizations”. 
(b) An organization shall be included in the “List of Approved Organizations” if the board determines that its standards are comparable to the standards established by the provisions of this administrative regulation. 
(4) If an application is approved, the board shall issue a provider number to the applicant: 
(a) Provider approval shall initially expire: 
(a) For a health care agency, on June 30 of the next even-numbered year; 
(b) For a nonhealth care agency, on June 30 of the next uneven-numbered year. 
(5) On or before March 30 of the year in which an approval period expires, an approved provider shall submit a: 
(a) “Request for Renewal”; and 
(b) Fee as set forth in 201 KAR 20:240. 
(7) Renewal shall be for two (2) years. 
(8) The participants’ evaluation summary for any continuing education activity which was rated as unsatisfactory by twenty (20) percent or more of the participants shall be submitted with the renewal application. 
(9) Participants shall be provided with essential information for review prior to registration. This information shall include: 
(a) Learning objectives; 
(b) Content overview; 
(c) Presenter; 
(d) Number of contact hours; 
(e) Fee; and 
(f) Requirements for successful completion. 
(10) Published information about continuing education activities offered by providers approved by the board shall include the: 
(a) Provider number; and 
(b) Following statement: “Kentucky Board of Nursing approval of an individual nursing continuing education provider does not constitute endorsement of program content.” 

Section 2. (1) The board may review a provider’s continuing education activities or approval status at any time. 
(2) Except as provided in subsection (3) of this section, if after a review of a provider it is determined that the provider does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny or limit the provider’s approval status. 
(3) If after a review of a continuing education activity it is determined that the activity does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny or limit the provider’s approval status for subsequent offerings of that specific continuing education activity. 
(4) A request for a hearing before the board shall be filed within ten (10) days of receipt of the board’s notice. 
(b) If a provider fails to submit a request for a hearing within the time specified in paragraph (a) of this subsection, the board shall implement the action proposed in its notice. 

Section 3. Providers shall comply with the following standards: 
(1) A nurse who meets the qualifications established in paragraphs (b) and (c) of this subsection shall be administratively responsible for continuing education activities, including: 
1. Planning; 
2. Development; 
3. Implementation; and 
4. Evaluation 
(b) A nurse administrator shall: 
1. Hold a current active license;
2. Have experience in adult and continuing education; and

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

(2) Organized learning [Continuing education] activities shall be based upon systematic needs assessment and shall support [the promotion of] quality continuing education that will:

(a) Enhances [Enhance] the quality, safety and effectiveness of care provided by nurses; and

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

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

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

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

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

(4) Objectives for continuing education activities shall be:

(a) Related to nursing practice and interventions;

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

(c) Consistent with needs assessment data.

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

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

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

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

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

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

(9) The name, title and credentials identifying the educational and professional qualifications for each faculty member shall be retained in the provider offering files.

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

(11) Participants shall be provided with essential information for review prior to registration. This information shall include:

(a) Learning objectives;

(b) Content overview;

(c) Date, time, and presentation schedule;

(d) Presenter;

(e) Number of contact hours;

(f) Fee and refund policy; and

(g) Requirements for successful completion.

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

(a) Provider number; and

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

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

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

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

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

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

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

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

(e) Summary of participant evaluations;

(f) Number of continuing education contact hours awarded;

(g) Master copy of certificate awarded.

(16) [f192] Participants shall receive a certificate of attendance that documents participation with the following:

(a) Name of participant;

(b) Offering title, date and location;

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

(d) Name and signature of authorized provider representative;

(e) Number of continuing education contact hours awarded.

(17) [f193] There shall be a clearly defined method for evaluating the continuing education activity which includes the following:

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

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

(18) [f141] An action plan with time lines for resolution of identified deficiencies shall be maintained as [revealed in] the summary of participant evaluations. The plan shall include the projected time frame for resolution:

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

1. Planning;

2. Development;

3. Implementation; and

4. Evaluation.

(b) A nurse administrator shall:

1. Hold a current, active license;

2. Have experience in adult and continuing education; and

3. Hold a baccalaureate or higher degree in nursing.

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

(19) The provider shall have current policies and procedures for the management of the providership that demonstrate compliance with the required standards.

(20) The continuing education providership shall be a recognized function within the sponsoring organization.

Section 4. (1) A continuing education provider applicant may request limited offering approval for no more than three (3) continuing education courses.

(2) All standards specified in this administrative regulation shall apply with the exception of Section 3(1) of this administrative regulation.

(3) A continuing education provider of limited offerings shall be administered by a healthcare professional with credentials supporting content expertise in the subject matter of the proposed limited offerings.

Section 5. (1) The following forms are incorporated by reference:

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

(b) "List of Recognized [Approved] Organizations (1992)." and "Request for Renewal (1992)."

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

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 5, 2000 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing
shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel.: (502) 329-7009, Fax: (502) 328-8206, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets out the requirements to become a provider of continuing education to nurses.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.
(c) How this administrative regulation conforms to the content of the authorizing statute: It provides the specifics for becoming an approved provider of continuing education.

(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 clarify the provider approval process.
(b) The necessity of the amendment to this administrative regulation: Providers have stated that the administrative regulation is difficult to follow. These amendments will hopefully clarify the process.
(c) How the amendment conforms to the content of the authorizing statute: The board is authorized to approve providers of CE.
(d) How the amendment will assist in the effective administration of the statutes: By clarifying the provider approval process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All applicants for provider approval, number unknown.

(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: The language of the administrative regulation should be more comprehensible to applicants for provider approval.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation.
(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.

(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 to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fee.

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

KENTUCKY BOARD OF NURSING

Amendment

201 KAR 20:225. Reinstatement of license.

RELATES TO: KRS 314.041(8), 314.042(9), 314.051(8), 314.071, 314.073

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: To provide for procedures for reinstatement of a license that has lapsed or has been subject to disciplinary action.

Section 1. Reinstatement of Lapsed License. (1) "Lapsed license" means a license which has expired because of the licensee's failure to:
(a) Submit a completed and timely application for renewal;
(b) Submit data required to enable the board to complete the processing of an application;
(c) Submit the current application fee; or
(d) Meet all requirements for renewal of a license.

(2) A lapsed license may be reinstated by:
(a) Submitting a completed application form;
(b) Paying the current application fee; and
(c) Meeting all other requirements of this section.

(3) In the case of an application for reinstatement of a lapsed license to active status, the applicant shall complete fifteen (15) contact hours of continuing education for each year since the date of last active licensure, with a minimum of thirty (30) contact hours to a maximum of 150 contact hours. For applications completed prior to July 1 of the second year of the licensure period for the license requested, thirty (30) hours of continuing education shall have been earned earlier than November 1 of the earning period corresponding with the current licensure period. For applications completed after July 1 of the second year of the licensure period for the license requested, thirty (30) hours of continuing education shall have been earned no earlier than November 1 of the current licensure period. Continuing education earned more than ten (10) years preceding the date of application shall not be counted toward meeting this requirement. Individuals who were exempt from the contact hour earning requirement pursuant to KRS 314.073(1) and who apply for reinstatement of a lapsed license within one (1) year from the date of lapse shall earn fifteen (15) contact hours.

(4) If the applicant has been currently licensed and actively engaged in nursing practice in another jurisdiction for at least 500 hours during the preceding five (5) years, the requirements of subsection 3 of this section shall not apply. The applicant shall submit evidence to verify the current licensure and active practice.

(5) An applicant may apply for reinstatement of a lapsed license on inactive status. The applicant shall meet the requirements of subsection 2(a) and (b) of this section.

Section 2. Reinstatement of License Subject to Disciplinary Action. (1) If a license has been revoked, an individual may apply for reinstatement by:
(a) Completing the appropriate application;
(b) Paying the current application fee; and
(c) Retaking the licensure examination and achieving a passing score.

(2) A hearing shall be held to determine if the issuance of a license would no longer be a threat to public safety and health.

(3) If a license has been suspended or voluntarily surrendered, an individual may apply for reinstatement by completing an application, paying the required fee and notifying the board, in writing, that the requirements of the decision or agreed order requires that a hearing be held, the individual shall notify the board, in writing, to request that a hearing be scheduled.

(4) An individual whose license has been suspended or voluntarily surrendered shall be required to comply with the continuing education requirements of KRS 314.073 for the period during which the license was suspended or surrendered.

(5) If a license has been probated and the individual has allowed the license to expire prior to the end of the probationary period, and the individual later applies for reinstatement, then the license will be
reinstated subject to the remaining probationary period. The individual shall comply with all requirements for reinstatement.

Section 3. Miscellaneous Requirements. (1) For individuals who restate their licenses during the last ten (10) months of a biennial continuing education contact hour earning period, contact hour earning which meets or exceeds the contact hour requirement for the upcoming licensure renewal may be accepted as evidence of earning for both current and upcoming licensure periods.

(2) A copy of an official name change document (court order, marriage certificate, divorce decree) shall be submitted by the applicant when making application, if applicable.

(3) An individual who was licensed on or after July 15, 1996, and who restates a lapsed license shall provide evidence of having earned three (3) hours of continuing education in domestic violence as required by KRS 194A.540. This requirement shall apply to an individual one (1) time only. Once earned, it shall not apply to any subsequent reinstatement.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 8, 2000 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentuckv Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7009, Fax: (502) 329-8206, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets out the requirements to reinstate a lapse or suspended license.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.
(c) How this administrative regulation conforms to the content of the authorizing statute: It provides the specifics for reinstating a lapsed or suspended license.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the specifics for reinstating a lapsed or suspended license.

(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: It sets out the requirement imposed by KRS 194A.540 of domestic violence education for a nurse reinstituting a lapsed license.
(b) The necessity of the amendment to this administrative regulation: To clarify for licensurees the requirement of domestic violence education when reinstating a lapsed license.
(c) How the amendment conforms to the content of the authorizing statute: The requirement was imposed by KRS 194A.540.
(d) How the amendment will assist in the effective administration of the statutes: By clarifying the statutory requirement.
(2) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All applicants for reinstatement of lapsed licenses, number unknown.

(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: Applicants who reuseState lapsed licenses will be required to have the domestic violence education.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs to the agency to implement this administrative regulation.
(b) On a continuing basis: None.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.

(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 to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fee.
(9) TIERING: Is tiering applied? Tiering was not used since due to would be unconstitutional.

KENTUCKY BOARD OF NURSING
(Amendment)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 61.374(3), 314.041(5), 314.042(3), (6), 314.051(2), 314.071(1), (2), 314.073(7), 314.142(1)(b), 314.161

STATUTORY AUTHORITY: KRS 61.874(3), 314.041(5), 314.042(3), (6), 314.051(2), 314.071(1), (2), 314.073(7), 314.131(1), 314.142(1)(b), 314.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.142(1)(b) requires the board to establish an application fee for a registered nurse who applies to the board to be credentialed as a "sexual assault nurse examiner". KRS 314.161 authorizes the board to establish fees necessary to implement KRS Chapter 314. KRS 314.041(5), 314.042(3), (6), 314.051(2), 314.071(1), (2), and 314.073(7) require the board to establish fees for licensure, registration, examination, renewal, reinstatement, and continuing education. This administrative regulation establishes those fees.

Section 1. Fees for Licensure or Registration Applications. (1) The board shall collect a fee for:
(a) An application for licensure; - $120 [eighty ($80) dollars].
(b) Licensure by endorsement as a licensed practical nurse - $120 [eighty ($80) dollars].
(c) Licensure by examination as a registered nurse - $110.
(d) Licensure by examination as a licensed practical nurse - $110.
(e) Biennial renewal of active license - ninety-five ($95) dollars.
(f) Biennial renewal of inactive license - sixty-five ($65) dollars.
(g) Reinstatement of license - $120 [eighty ($80) dollars].
(h) Active to inactive license status - ninety-five ($95) dollars.
(i) Inactive to active license status - ninety-five ($95) dollars.
(j) Full verification of licensure, temporary work permit, credential or registration history - fifty ($50) dollars.
(k) Duplicate license or registration card or letter - thirty-five ($35) dollars.
(l) Registration as an advanced registered nurse practitioner -
$120 [eighty-(50)-dollars].

(m) [[H]] Biennial renewal of registration as an advanced registered nurse practitioner - ninety-five (95) fifty-five (55) dollars.

(n) [[H]] Reinstatement of registration as an advanced registered nurse practitioner - $120 [eighty-(50)-dollars].

(3) An application shall not be evaluated unless the current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The fee for an application for approval of a provider or continuing education and for renewal or reinstatement of the approval shall be:

(1) Initial provider approval - $400 [800].

(2) Reinstatement of provider approval - $400 [100].

(3) Biennial renewal of approval - $150 [100].

(4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services. (1) The fee for a service shall be:

(a) Verification of temporary work permit, licensure, registration, or credential status:
   If requested in individual nurse format - ten (10) dollars;
   If requested in list format - one (1) dollar per name with a minimum charge of ten (10) dollars.

(b) Copy of an examination result or transcript - five (5) dollars.

(c) Nursing certificate (optional) - thirty (30) dollars.

(2) An applicant for licensure who takes or retakes the licensure examination shall pay:

(a) The current examination fee required by the national council of state boards of nursing; and

(b) Application for licensure fee pursuant to Section 1 of this administrative regulation.

(3) An applicant shall pay the current examination fee required by the national council of state boards of nursing, and the fees established by the board for application for licensure, if the nurse:

(a) Is licensed in another state, United States territory, or country;

(b) Submits an application for licensure in Kentucky as a registered nurse, or a licensed practical nurse; and

(c) Is required to take the licensure examination.

(4) A graduate of a foreign school of nursing shall be responsible for:

(a) Costs incurred to submit credentials translated into English;

(b) Immigration documents; and

(c) Other documents needed to verify that the graduate has met Kentucky licensure requirements.

Section 4. An application shall lapse and the fee shall be forfeited if the application is not completed as follows:

(1) For an application for licensure by endorsement, within six (6) months from the date the application form is filed with the board office; and

(2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office.

Section 5. An applicant who meets all requirements for approval, licensure, credential or registration shall be issued the appropriate approval, license, credential or registration without additional fee.

Section 6. Fees for Sexual Assault Nurse Examiners. (1) The application fee shall be $120 [fifty-(50)-dollars].

(2) The credential renewal fee shall be ninety-five (95) forty (40) dollars.

(3) The credential reinstatement fee shall be $120 [fifty-(50)-dollars].

Section 7. A payment for an application fee which is in an incorrect amount shall be returned and the application shall not be posted until the correct fee is received.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 10, 2000 at noon
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 15, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7009, Fax: (502) 329-8205, Email: nathan.goldman@mailstate.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets out the fees charged by the board.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.

(c) How this administrative regulation conforms to the content of the authorizing statute: It sets out the fees charged by the board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets out the fees charged by the board.

(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: It increases fees for applications.

(b) The necessity of the amendment to this administrative regulation: The board of nursing receives operating funds only from its collection of fees. Additional revenue is needed for the operation of the agency.

(c) How the amendment conforms to the content of the authorizing statute: The board is authorized to set fees.

(d) How the amendment will assist in the effective administration of the statutes: The increase in fees will allow the board to continue to operate.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All licensees, approximately 60,000.

(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: Licensees will pay increased fees for applications.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be minimal additional costs to the agency to implement this administrative regulation.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.

(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 to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes fees and directly increases fees.

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.
KENTUCKY BOARD OF NURSING
(Amendment)


RELATES TO: KRS 314.041(1), 314.051(1), 314.111(1), 314.131(2)
STATUTORY AUTHORITY: KRS 314.131(1), (2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(2) requires the board to approve curricula and standards for schools of nursing and courses preparing persons for licensure and to monitor standards for nurse competency under KRS Chapter 314. This administrative regulation establishes the organization and administration standards for prelicensure registered nurse or practical nurse programs.

Section 1. Organization or Administration Standards for Prelicensure Registered Nurse and Practical Nurse Programs. To be eligible for approval by the board, a program shall have:

1. A governing institution.
   a. The institution which establishes and conducts the program of nursing shall be accredited by the southern association of colleges and schools or the appropriate accrediting body.
   b. The governing institution shall assume full legal responsibility for the overall conduct of the program of nursing.
   c. The governing institution shall:
      1. Designate a nurse administrator for each program site;
      2. Assure that at least twenty-five (25) percent of the nurse administrator's time shall be available to complete the duties specified in subsections (3) and (4) of this section at each program site;
      3. Establish administrative policies; and
      4. [9:] Provide financial support, resources, and facilities for the operation of the program of nursing.
   d. The governing institution shall provide an organizational chart which describes the organization of the program of nursing and its relationship to the governing institution.
2. Administrative policies.
   a. There shall be written administrative policies for the program which are in accord with those of the governing institution and available to the board for review.
   b. The board shall be notified in writing of any change in the appointment of the nurse administrator.
   c. A written plan for the orientation of the faculty to the governing institution and to the program or to the extension program shall be implemented.
   d. There shall be a written contract between the governing institution and each agency or institution that provides a learning experience for a student. A contract shall be renewed in a regular manner for an observational experience or field trip.
   e. The contract shall clearly identify the responsibilities and privileges of both parties.
   f. The contract shall bear the signature of the administrative authorities of each organization.
3. The contract shall vest in the faculty control of the student learning experiences subject to policies of the contractual parties.
4. The contract shall be current and reviewed annually.
   a. A nurse administrator who shall have authority and responsibility in the following areas:
      1. Development and maintenance of collaborative relationships with the administration of the institution, other divisions or departments within the institution, related facilities and the community.
      2. Participation in the preparation and administration of the program of nursing budget.
      3. Screening and recommendation of candidates for faculty appointment, retention, and promotion.
      4. Development of admission, retention and progression criteria.
      5. Development, implementation, and evaluation of the program of nursing.
      6. Development and implementation of program policies.
      7. Facilitation of continuing academic and professional development for the faculty.

(1) Establishment of student/faculty ratio in the clinical practice experience. The criteria to determine the student/faculty ratio shall include:
   1. Acuity level of the patient population.
   2. Clinical preparation of faculty.
   5. Physical setting for student experience.
   7. The student/faculty ratio (excluding observational experiences) shall not exceed a maximum of ten (10) to one (1) in the clinical practice experience.

(2) Submission of the "Certified List of Program of Nursing Graduates", as incorporated by reference in 201 KAR 20:070, upon student completion of all requirements for a degree, diploma or certificate.

(3) Provision for a system of records and reports essential to the operation of the program of nursing. The system shall include records of:
   a. Enrolled and previously enrolled students.
   b. Program meetings.
   c. Faculty members.
   d. Program development, proposals, recommendations, plans and evaluation.
   e. Official publications which include:
      1. Description of the governing institution and program of nursing.
      2. Policies on admission, progression, dismissal, graduation and student grievance procedures.
      3. Description of student services.
      4. Written personnel policies for the faculty which include:
         a. Position descriptions.
         b. Faculty rights and responsibilities.
         c. Faculty evaluation process.
   f. Clerical assistance. The number of clerical assistants shall be determined by the number of students and faculty. There shall be secretarial and clerical assistants to meet the needs of the program.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 8, 2000 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7099, Fax: (502) 329-8206, Email: nathan.goldman@mail.state.ky.us

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) A What this administrative regulation does: This administrative regulation sets out the standards and required organization of prelicensure programs of nursing.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS Chapter 314.

(c) How this administrative regulation conforms to the content of the authorizing statute: It sets out the standards and required organization of prelicensure programs of nursing.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets out the standards and required organization of precense programs of nursing.

(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: It requires that at least 25% of the nurse administrator's time be devoted to administrative matters.
(b) The necessity of the amendment to this administrative regulation: To specify that a nurse administrator must devote at least 25% of his or her time to administrative matters within the program of nursing.
(c) How the amendment conforms to the content of the authorizing statute: The board is authorized to set standards for programs of nursing.
(d) How the amendment will assist in the effective administration of the statutes: By clarifying the nurse administrator's standards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All precense programs of nursing. There are presently 63.

(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this administrative regulation, if new, or by the change if it is an amendment: A program of nursing must insure that the nurse administrator may spend at least 25% of his or her time on administrative duties.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional costs to the agency to implement this administrative regulation.
(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: Agency general funds.

(6) 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 to implement this administrative regulation.

(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:049. Small game and furbearer hunting on public areas.

RELATES TO: KRS 150.010, 150.370(1), 150.399, 150.400, 150.410, 150.620, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to establish seasons, limits and other requirements for hunting, and to make these requirements apply statewide or to a limited area. KRS 150.620 authorizes the department to promulgate administrative regulations for the maintenance and operation of the lands it has acquired for public recreation. This administrative regulation establishes exceptions on wildlife management areas to statewide small game and furbearer hunting administrative regulations.

Section 1. The provisions of 301 KAR 2:251 shall apply on a wildlife management area unless specified otherwise by this administrative regulation.

Section 2. On a wildlife management area owned or managed by the department:

(1) A person shall wear hunter orange as specified in Section 12 of 301 KAR 2:172 when a firearm is allowed for deer hunting.

(2) The hunter orange requirement in subsection (1) of this section shall not apply to a person hunting:
(a) Waterfowl;
(b) Raccoon or opossum at night.
(c) During the first two (2) days of modern gun deer season, a person shall not:
(a) Hunt small game or furbearers;
(b) Trap; or
(c) Allow an unleashed dog.

(3) A person may hunt small game or a furbearer during the modern gun deer season on a wildlife management area where gun deer hunting is not permitted during the modern gun deer season.

Section 3. Exceptions or Specific Wildlife Management Areas. (1)

1. Hunter orange requirement in subsection (1) of this section shall not apply to a person hunting:
(a) Waterfowl;
(b) Raccoon or opossum at night.
(c) During the first two (2) days of modern gun deer season, a person shall not:
(3) A person may hunt small game or a furbearer during the modern gun deer season on a wildlife management area where gun deer hunting is not permitted during the modern gun deer season.

Barren River Wildlife Management Area.
(a) Quail and rabbit: closed after December 31.
(b) On the Peninsula Unit, including Narrows, Goose and Grass Islands, a person shall not:
1. Hunt with a breech-loading firearm;
2. Except as authorized by the department, carry a breech-loading firearm with ammunition in the chamber or magazine; or
3. Hunt small game with shot larger than number two (#2).

2. Beaver Creek Wildlife Management Area, including private inholdings.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.
(c) Furbearer: December 5 through December 31. A trapper shall complete a harvest survey.

3. Big South Fork National River and Recreation Area, McCreary County.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.

4. Cane Creek Wildlife Management Area, including private inholdings.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.
(c) Furbearer: December 5 through December 31. A trapper shall complete a harvest survey.

5. Central Kentucky Wildlife Management Area.
(a) Closed to small game and furbearer hunting except squirrels.
(b) A person shall not allow a dog to be unleashed:
1. April 1 until the third Saturday in August; or
2. At other times of the year, except on a Tuesday, Thursday, Saturday, Sunday, or during an authorized field trial.
(c) A trapper shall obtain prior written permission from the area manager.
(d) A hunter or dog trainer shall check in and out daily at the designated check station.

(a) Quail and rabbit: closed after December 31.
(b) Grouse: October 1 through December 31.
(c) A hunter or dog trainer shall check in and out daily at the designated check station.

(a) Quail and rabbit: closed after December 31.
(b) A person shall not allow a dog to be unleashed from April 1 until the third Saturday in August.
(c) A hunter or dog trainer shall check in and out daily at the designated check station.

8. Daviess County Wildlife Management Area. Closed to hunting for small game and furbearers. Area open to trapping according to statewide administrative regulations as found in 301 KAR 2:251.

(a) Quail and rabbit: closed after December 31.
(b) Grouse: October 1 through December 31.

10. Grayson Lake Wildlife Management Area. A hunter or dog trainer shall check in and out daily at a designated check station.

(a) Quail and rabbit: closed after December 31.
(b) Grouse: closed to hunting and trapping.
(c) A hunter or dog trainer shall check in and out daily at the desig-
nated check station.
(d) The area shall be closed November 17-19 to all hunting except eligible participants in the pheasant quota hunt and archery deer hunters. On November 20-21, the area shall be closed to all small game hunting except pheasants, which can be hunted.
(e) From November 20 to December 31, pheasant shall be a legal small game species and can be taken on this area with a valid Kentucky hunting license.

(a) Quail and rabbit: closed after December 31.
(b) A hunter or dog trainer shall check in and out daily at the designated check station.

(13) Keber Wildlife Management Area.
(a) Quail and rabbit: closed after December 31.
(b) A hunter or dog trainer shall check in and out daily at the designated check station.

(14) Lake Cumberland Wildlife Management Area.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.

(15) Mill Creek Wildlife Management Area, Including private holdings.
(a) Grouse: October 1 through December 31.
(b) Quail and rabbit: closed after December 31.
(c) Furbearer: December 5 through December 31. A trapper shall complete a harvest survey.
(d) Area open to trapping according to statewide administrative regulations as found in 301 KAR 2:251.


(17) Peal Wildlife Management Area.
(a) Furbearer hunting: twenty (20) day season beginning the day after the modern gun deer season.
(b) Furbearer trapping: December 1 through 10, water sets only. Trappers shall be selected by drawing conducted by the area manager.
(c) Quail and rabbit: closed after December 31.

(18) Pennyrile Forest Wildlife Management Area. Grouse: December 1 through December 31; daily limit, two (2).

(19) Pioneer Weapons Wildlife Management Area. A person shall not:
(a) Hunt with a breech-loading firearm.
(b) Except as authorized by the department, carry a breech-loading firearm with ammunition in the chamber or magazine; or
(c) Hunt small game with shot larger than number two (2)

(20) Robinson Forest Wildlife Management Area. Hunting is permitted under the requirements of 301 KAR 4:200.

(21) Taylorsville Lake Wildlife Management Area.
(a) The area east of Van Buren Boat Ramp shall be closed to public access from November 1 through the last day of February.
(b) Quail and rabbit: closed after December 31.
(c) A hunter or dog trainer shall check in and out daily at a designated check station.

(22) Pennyrile-Tradewater Wildlife Management Area. Grouse: December 1 through December 31; daily limit, two (2).

(23) West Kentucky Wildlife Management Area, McCracken County.
(a) A person shall not hunt on a tract designated by numbers followed by the letter "A".
(b) Quail and rabbit:
1. Tracts 2, 3, 6 and 7: closed after December 31.
2. Tracts 1, 4 and 5: January 1 through 10, unless maximum acceptable harvest levels have been reached prior to January 10 as determined from hunter use data.
3. If a tract is closed before January 10, a sign announcing closure shall be posted at the hunter check station at least twenty-four (24) hours prior to the closure.
(c) A hunter or dog trainer shall check in and out daily at the designated check station.
(d) A person shall not:
1. Use a rifle or ball or slug ammunition;
2. Allow an unleashed dog; or
3. Operate a vehicle on Tract 6 from February 1 through April 16.

(26) Yatesville Wildlife Management Area.
(a) For three (3) years from the effective date of this administrative regulation, a person shall not hunt grouse.
(b) A hunter or dog trainer shall check in and out daily at a designated check station.
(27) Yellowbank Wildlife Management Area.
(a) Quail and rabbit: closed after December 31.
(b) A hunter or dog trainer shall check in and out daily at the designated check station.

DOUGLAS SCOTT PORTER, Assistant Attorney General C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: August 11, 2000
FILED WITH LRC: August 15, 2000 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fields, Public Affairs/Policy, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406 FAX: (502) 564-6508.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Fields
(1) Provide a brief summary of:
(a) What the administrative regulation does: This administrative regulation establishes the seasons on the wildlife management areas for small game, to the extent that the season varies from the statewide requirement.
(b) The necessity of the administrative regulation: This administrative regulation is necessary in order to effectively manage the small game populations in Kentucky and to provide for the maximum hunter opportunities.
(c) How does this administrative regulation conform with the authorizing statute. This is the very type of administrative regulation that is necessary to conform with the authorizing statute.
(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation is necessary to implement the statutes by giving specific dates and locations for the general principles set forth in the statute.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change the existing administrative regulation: This amendment will close the Green River WMA for a small period of time to certain types of hunting that would conflict with the quota pheasant hunt that was established on that WMA in 301 KAR 2:251.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to ensure more safe hunting conditions and less hunter conflicts during a limited time for the quota hunt and 2 additional days.
(c) How does the amendment conform to the authorizing statutes. This amendment conforms to the authorizing statutes by being the type of subject matter that is to be regulated and by promoting good
wildlife management while creating safe hunting opportunities.

(d) How the amendment will assist in the effective administration of the statutes. This amendment will assist the statues by allowing for hunting opportunity while preventing possible hunter conflicts.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Approximately 60,000 small game and fur bearer hunters utilize the wildlife management areas covered by this administrative regulation. Only a portion of those will use the Green River WMA and only 300 will participate in the pheasant quota hunt. In addition, there are businesses in the area that will be affected by increased hunting opportunity through increased revenue.

(4) Provide an assessment of how the above groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Hunters will be positively impacted by more safe hunting opportunities through the pheasant hunt. A small number of small game hunters will not be able to hunt 1 WMA for 5 days during this hunt. Local businesses should be positively economically impacted through increased business through more hunters coming to the area to participate in the pheasant hunt.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the agency.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation. There will be no additional cost. All cost associated will be cost already absorbed by the agency, such as publication of the seasons and restrictions and enforcement. These costs are covered through the Trust and Agency Fish and Game 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. There is no anticipated increase in fees or funding by this change.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: it does not.

(9) TIERING: Is tiering applied? Tiering was used in setting different seasons dates for this one particular wildlife management areas, because it is the only area with a pheasant quota hunt. Specific season dates or other requirements for wildlife areas allow public recreation while at the same time helping protect the flora and fauna of these areas.

JUSTICE CABINET
Kentucky Department of Corrections
(Amendment)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 195, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards 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, August 14, 2000 [June 14; 2889]"

1.1 Legal Assistance for Corrections Staff
1.2 News Media
1.4 The Monitoring and Operation of Private Prisons

(b) "Department of Corrections Policies and Procedures, Volume
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

II. August 14, 2000 (June 14, 1999) :

18.1 Classification of the Inmate
18.2 Central Office Classification Committee
18.5 Custody and Security Guidelines
18.7 Transfers
18.9 Out of stoto Transfers
18-10-01 Preparole Progress Reports
18.11 Placement for Residential Mental Health Treatment (Amended 8/14/00)
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally III (Amended 8/14/00)
18.13 Population Categories
18.15 Protective Custody
18.17 Interstate Agreement on Transfers
18.18 International Transfer of Inmates
19.1 Government Services Projects
19.2 Community Services Projects
19.3 Inmate Wage Program
20.1 Educational Programs and Educational Good Time
21.2 Boot Camp Program
22.1 Privilege Trips
23.1 Religious Programs
25.1 Graffiti
25.2 Public Official Notification of Release of an Inmate
25.3 Prerelease Program
25.4 Institutional Inmate Furloughs
25.6 Community Center Program
25.7 Expedient Release
25.8 Extended Furloughs
25.10 Administrative Release of Inmates
25.11 Victim Notification

(c) "Department of Corrections Policies and Procedures, Volume III, August 14 [May 15], 2000” :

27-01-01 Probation and Parole Procedures
27-02-01 Duties of Probation and Parole Officers (Amended 8/14/00)
27-03-01 Workload Formula Supervisor/Staff Ratio
27-05-01 Testimony, Court Demeanor and Availability of Legal Services
27-06-01 Availability of Supervision Services
27-06-02 Equal Access to Services
27-07-01 Cooperation with Law Enforcement Agencies
27-08-01 Use of Force
27-09-01 Kentucky Community Resources Directory
27-10-01 Pretrial Diversion [27-11-01 Intensive Supervision (Deleted 8/14/00)]
27-11-02 Prerelease Probation
27-12-01 Supervision: Case Classification
27-12-02 Risk Assessment
27-12-03 Initial Interview
27-12-04 Conditions of Supervision and Request for Modification
27-12-05 Releasee’s Report
27-12-06 Grievance Procedures for Offenders (Amended 8/14/00)
27-12-07 Employment, Educational and Vocational Referrals
27-12-08 Supervision Plan
27-12-09 Casebook
27-12-10 Guidelines for Monitoring Supervision Fee
27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority
27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)
27-12-13 Community Service Work
27-12-14 Offender Travel
27-13-01 Drug and Alcohol Testing of Offenders
27-13-02 Alcohol Detection
27-14-01 Interstate Compact Transfers
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
27-15-01 Supervision Report; Violations and [ ] Unusual Incidents (Amended 8/14/00)

[27-15-02 Community Confinement Program Subject: Electronic Monitoring (Deleted 8/14/00)]
27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence
27-17-01 Absconder Procedures
27-18-01 Probation and Parole Issuance of Detainer or Warrant
27-19-01 Preliminary Revocation Hearing
27-20-01 Division of Probation and Parole Controlled Intake Program (Amended 8/14/00)
27-20-02 Prisoner Intake Notification
27-20-03 Prisoner Status Change
27-21-01 Apprehension and Transportation of Probation and Parole Violators
27-22-01 In-state Transfer
27-24-01 Closing Supervision Report
27-24-02 Reinstatement of Clients to Active Supervision
27-26-01 Assistance to Former Clients and Dischargees
27-27-01 Restoration of Civil Rights
27-28-01 Firearms/Explosives: Application for Relief from Disability
27-29-01 Parole Review Dates Modification
27-30-01 Offender Registration (Amended 8/14/00)
27-30-02 Conditional Discharge of Sex Offenders
27-31-01 Use of Chemical Agents in Probation and Parole
28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)
28-01-03 Presentence, Postsentence, Supplemental and Partial Investigations
28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)
28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports
28-02-01 Expedition Release Program
28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsor-shis/Gradual Release
28-04-01 Furlough Verification
28-05-01 Out-of-state Investigations

(2) This material may be inspected, copied, or obtained at the Office of General Counsel, Department of Corrections, 2439 Lawrenceburg Road, Frankfort, Kentucky 40601, (502) 564-2024, facsimile (502) 564-6494, Monday through Friday, 8 a.m. to 4:30 p.m.

DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: August 11, 2000

FILED WITH LRC: August 14, 2000 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 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 September 14, 2000, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Tamela Biggs or Jack Damron, Staff Attorneys, Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Telephone (502) 564-2024, Facsimile (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation incor-
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 Green River Correctional Complex.

Section 1. Incorporation by Reference. (1)(a) Green River Correctional Complex Policies and Procedures, August 14 [January 14], 2000, is 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) Green River Correctional Complex Policies and Procedures include:

GRCC 01-01-01 Establishment of the GRCC Institutional Operations Manual
GRCC 01-01-02 Organization of GRCC Operations Manual
GRCC 01-01-03 Formation and Revision of GRCC Operating Procedures
GRCC 01-02-01 Organization and Assignment of Responsibility
GRCC 01-03-01 Staff Meetings, Purpose and Requirements
GRCC 01-04-01 Monthly Reports
GRCC 01-05-01 Procedures Officer
GRCC 01-06-01 Inmate Access to and Communication with GRCC Staff
GRCC 01-07-01 Institutional Tours of GRCC
GRCC 01-08-01 GRCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive and Community Agencies
GRCC 01-09-01 Duty Officer Responsibilities
GRCC 01-10-01 Smoking: GRCC Facility
GRCC 01-11-01 Institutional Planning
GRCC 01-12-01 Public Information and Media Communication
GRCC 02-01-01 Fiscal Management Organization
GRCC 02-01-02 Fiscal Management Accounting Procedures
GRCC 02-01-03 Fiscal Management Agency Funds
GRCC 02-01-04 Fiscal Management Insurance
GRCC 02-02-01 Fiscal Management: Budget
GRCC 02-03-01 Fiscal Management: Audits
GRCC 02-04-01 Purchase and Supply Requisitions
GRCC 02-05-01 Warehouse Operation
GRCC 02-06-01 Inmate Canteen
GRCC 02-06-02 Inmate Canteen Committee
GRCC 02-07-01 Inmate Personal Funds
GRCC 02-08-01 Inventory Control
GRCC 03-01-01 General Guidelines for GRCC Employees
GRCC 03-02-01 Essential Personnel During Inclement Weather or Emergency Conditions
GRCC 03-03-01 Employee Recognition Program
GRCC 03-04-01 Employee Grievance and EEO Complaint Procedure
GRCC 03-05-01 Drug Free Work Place
GRCC 03-06-01 Organization of Payroll and Personnel Records
GRCC 03-07-01 Personnel Staffing Review
GRCC 03-08-01 Personnel Registers
GRCC 03-09-01 Selection and Promotion of Employees
GRCC 03-10-01 Medical Examination for New Employees
GRCC 03-11-01 Kentucky Employee Assistance Program
GRCC 03-12-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel and Volunteers
GRCC 03-13-01 Employee Evaluations
GRCC 03-14-01 Student Placement Program
GRCC 03-15-01 Documentation Requirement Guidelines
GRCC 03-16-01 New Employee Orientation
GRCC 03-17-01 Resignation, Transfer or Termination Clearance Procedure

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(Amendment)


RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: 196.035, 197.020, 439.470, 439.590, 439.640
DOUG SAPF, Commissioner
TAMELA BIGGS, Staff Attorney
APPROVED BY AGENCY: August 11, 2000
FILED WITH LRC: August 14, 2000 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 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 September 14, 2000, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Tamela Biggs or Jack Damron, Staff Attorneys, Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Telephone (502) 564-2024, Facsimile (502) 564-6494.

REGULATORY IMPACT ANALYSIS
Agency Contact Person: Tamela Biggs
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures Governing the operation of Green River Correctional Complex. Regarding the rights and responsibilities of Green River Correctional Complex employees and the inmate population.
(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs every aspect of the operation of Green River Correctional Complex.

(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 will make minor changes to satisfy KRS Chapter 13A requirements, better define position titles and clarify areas of responsibility. Also, to clarify that contact lenses are only authorized at Green River Correctional Complex when medically authorized.
(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
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

statutes: It permits the commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Green River Correctional Complex.

d) How the amendment will assist in the effective administration of the statutes: The amendment will make minor changes to conform to KRS Chapter 13A and will allow a clearer understanding of the policies by the Green River Correctional Complex employees and inmate population regarding contact lens.

(3) Type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation: 242 employees of the Green River Correctional Complex and 912 inmates and all visitors to Green River Correctional Complex.

(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Green River Correctional Complex employees and inmate population will have a clearer understanding of the policies and areas of responsibility. Also, Green River Correctional Complex employees and inmate population will now read, in policy, that contact lenses are medically necessary.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None.

(6) On a continuing basis: None.

(7) Provide a statement of the source of the funding that will be used for the implementation and enforcement of this administrative regulation: Funds budgeted for this 1998-2000 biennium.

(8) 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: None.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulations apply equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to these administrative regulations 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.

TRANSPORTATION CABINET
Office of Transportation Delivery
(Amendment)

603 KAR 7:080. Human service transportation delivery.

STATUTORY AUTHORITY: KRS 96A.095, 281.600, 281.605, 49 USC Chapter 53

NECESSITY, FUNCTION, AND CONFORMITY: 49 USC Chapter 53 authorizes the formation and funding of human service transportation delivery to transportation providers in urban, urbanized, and nonurbanized areas. KRS 96A.095 allows the Transportation Cabinet to accept funding from any source and to use the funding to promote and develop mass transportation services in Kentucky. For the purpose of providing efficient, effective, safe, and coordinated transportation delivery to clients of the program groupings the Empower Kentucky Transportation Delivery work group recommended that a single agency be responsible for the transportation component of the programs. The function of this administrative regulation is to implement the procedures required to administer this program. Since many of the transportation providers are required by federal law or regulation to comply with safety and accountability procedures and the Transportation Cabinet is authorized in KRS 281.600 to establish safety criteria for a commercial transportation provider, all of the transportation providers, except a volunteer transportation provider, which receive funding under the provisions of this administrative regulation shall be required to comply with the same safety and accountability requirements.

Section 1. Definitions. (1) "Ambulatory disoriented and nonambu-
latory" means as defined in 907 KAR 1:061, Section 1(15).

(2) "Broker" means as defined in 2000 Ky. Acts ch. 346.

(3) "Certificate Types 01, 02, 03, 04, 07, and 08" means as defined in 2000 Ky. Acts ch. 346.

(4) "CTAC" means as defined in 2000 Ky. Acts ch. 346.

(5) "Delivery area" means as defined in 2000 Ky. Acts ch. 346.

(6) "Human service transportation delivery" means as defined in 2000 Ky. Acts ch. 346.

(7) "Level of eligibility" means as defined in 2000 Ky. Acts ch. 346.

(8) "Mass transportation" means as defined in KRS 96A.010.

(9) "Mileage reimbursement" means a fixed rate per mile a motor vehicle is operated. The rate shall not exceed the expense of operating the motor vehicle. Mileage reimbursement is not considered to be a benefit or payment of wages.

(10) "Provider" means an individual with appropriate operating authority performing transportation operations for human service transportation delivery.

(11) "Recipient" means a person that is receiving benefits under one (1) of the programs listed in Section 3 of this administrative regulation and meets the criteria of the participating program.


(13) "TANF" means an acronym for Temporary Assistance for Needy Families Program administered by the Cabinet for Families and Children.

(14) "Urgent care" means an unscheduled episodic situation when there is not a threat to life or limb, but the recipient must be seen within a time frame, which is less than the seventy-two (72) hour required notice, and treatment cannot be delayed. For purposes of this administrative regulation, "urgent care" does not include:

(a) Emergency trips which are to be addressed by qualified emergency services;

(b) Instances whereby recipients are required to be seen by a licensed medical provider or another licensed medical provider to whom the person is being referred for medical treatment with less than seventy-two (72) hours’ notice. See Section 11(7)(a), (b), (c) of this administrative regulation.

(15) "Volunteer transportation" means transportation provided by a person or entity as a charitable act without the expectation of receiving a benefit, or being paid a wage.

(16) "24-7 (twenty-four seven) human service transportation delivery" means twenty-four (24) hours a day and seven (7) days a week.

Section 2. Newly established transportation regions shall be in effect no later than July 1, 2001, and shall be as follows:

(1) Region 1:

(a) Ballard;

(b) Calloway;

(c) Carisle;

(d) Fulton;

(e) Graves;

(f) Hickman;

(g) Marshall;

(h) McCracken;

(2) Region 2:

(a) Caldwell;

(b) Christian;

(c) Crittenden;

(d) Hopkins;

(e) Livingston;

(f) Lyon;

(g) Muhlenberg;

(h) Todd; and

(i) Trigg;

(3) Region 3:

(a) Daviess;

(b) Hancock;

(c) Henderson;

(d) McLean;

(e) Ohio;

(f) Union; and

(g) Webster;

(4) Region 4:

(a) Breckinridge;
July 1, 2001:
1. Bullitt
2. Oldham
3. Shelby; and
4. Spencer.

(7) Region 7: The following counties shall be in Region 7 until July 1, 2001:
(a) Bullitt;
(b) Henry;
(c) Oldham;
(d) Shelby;
(e) Spencer; and
(f) Trimble.

(8) Region 8:
(a) Anderson;
(b) Boyle;
(c) Casey;
(d) Franklin;
(e) Garrard;
(f) Jessamine;
(g) Lincoln;
(h) Mercer;
(i) Scott;
(j) Washington; and
(k) Woodford.

(9) Region 9:
(a) Boone;
(b) Campbell;
(c) Carroll;
(d) Gallatin;
(e) Grant;
(f) Kenton;
(g) Owen; and
(h) Pendleton.

(j) The following counties shall be added to Region 9 effective July 1, 2001:
1. Henry; and
2. Trimble.

(10) Region 10: Fayette.
(11) Region 11:
(a) Bourbon;
(b) Clark;
(c) Estill;
(d) Harrison;
(e) Madison;
(f) Montgomery;
(g) Nicholas; and
(h) Powell.

(12) Region 12:
(a) Bell;
(b) Clinton;
ent shall not be eligible if an appropriate operational household vehicle is available as denoted in 907 KAR 1:060.

(2) Transportation pursuant to the Kentucky Works Program shall be provided as follows:

(a) Recipients shall be transported to covered services or TANF supported activities in the county of residence or contiguous county. Transportation services shall include employment, child care, community centers, job interviews, and training.

(b) Transportation shall be provided for training such as, but not limited to, vocational, community colleges, universities and high schools within the recipient's county or human service transportation delivery area and contiguous to the human service delivery area.

(c) The broker shall pay a TANF recipient before or during the month of transportation services. Payment shall be contingent upon the TANF recipient receiving necessary authorization from the broker to use his or her private automobile, or the TANF recipient having access to an available automobile, to training, or employment activities.

(3) Other programs under the human service transportation delivery system shall include:

(a) Vocational rehabilitation pursuant to KRS Chapter 151B or 157;
(b) Vocational rehabilitation for the blind pursuant to KRS Chapter 151B or 163;
(c) Mental health, mental retardation, development disabilities, comprehensive care or substance abuse programs pursuant to KRS Chapter 202A, 202B 210, or 645; and
(d) Office of Aging Services under KRS Chapter 205, 209, 216, or 273.

(4) The state government agencies responsible for implementing the programs set forth in this section shall provide to the Transportation Cabinet:

(a) A monthly list of the persons eligible to receive human services transportation pursuant to the programs set forth in this section, including special Medicaid recipient waiver listings;
(b) The address of each person on the list; and
(c) The program for which each person on the list is eligible.

Section 4. Coordinated Advisory Transportation Committee (CTAC). CTAC shall be composed of members designated by the Cabinet for Health Services, Cabinet for Families and Children, Cabinet for Workforce Development and the Transportation Cabinet. The Cabinets for Health Services, Families, and Children, and the Transportation Cabinet shall each have two (2) voting members and Workforce Development shall have one (1) voting member. CTAC duties and responsibilities shall include:

1. Provide information and assistance to the Office of Transportation Delivery (OTD);
2. Review and recommend policies and operating procedures to the OTD; and
3. Assist with regulatory needs related to the Human Service Transportation Delivery Program.

Section 5. Transportation Broker Selection Process. (1) A request for proposal (RFP) and the process of awarding a brokerage contract for each region shall comply with KRS Chapter 45A. The RFP evaluation process shall address areas including, but not limited to the following:

(a) Overall quality in transportation delivery;
(b) Transportation Administration: Human Resources; Insurance Risk Management; Billing and Accounting;
(c) Transportation Operations: Scheduling/Reservations; Fleet Management;
(d) Dispatching and radio communications; software/hardware; reporting for both levels the broker and subcontractor, vehicle inspection or maintenance programs described.

(b) Experience and qualifications. In accordance with 2000 Ky. Acts ch. 346, a person that submits a request for proposal to be a broker under the human service transportation delivery program shall be required to submit documentation that he or she has at least one (1) year experience working with persons with special needs. The cabinet shall be prohibited from awarding higher scores, or giving any type of preferential treatment to any person that submits a request for proposal to be a broker, who is also a transportation provider, over a person who submits a request to be a broker and is not a transportation provider;

(c) Coordination: Trip coordination; coordination with local community based governmental office; training/educational or medical centers; coordination with other transportation providers; and

(d) Operational characteristics: Operational characteristics include locations of operations; resource use; storage of records; security and confidentiality of recipient and provider information; coverage of the delivery area; hours, and days, and operational availability.

(2) Contractual agreements.

(a) Each contract between the cabinet and broker shall be for one (1) year with three (3) one (1') year options to renew.

(b) Contracts shall be on a fiscal year basis, running July 1 through June 30.

(3) Operating authority. Except for a volunteer provider, each transportation provider shall have operating authority issued by the Transportation Cabinet pursuant to KRS Chapter 281 or 96A.

(4) A contract between the cabinet and the broker shall be subject to revocation in accordance with 2000 Ky. Acts ch. 346. Furthermore, the contract shall be subject to termination by the Commonwealth in accordance with 200 KAR 5:121.

Section 6. Transportation Broker. (1) A broker may coordinate the human service transportation delivery program with general public transportation as provided in 2000 Ky. Acts ch. 346.

(2) The broker shall make reports to the cabinet on all traffic accidents and moving violations involving either a broker or subcontractor while transporting a human service transportation passenger.

(3) The broker shall have all reports pertinent to payment to the cabinet not later than the seventh of each month following the reporting period. The cabinet shall reimburse the broker not later than the 15th of each month, if the broker has submitted the required reports.

Section 7. Orientation. (1) Recruiting transportation providers. All brokers shall provide an orientation packet approved by the cabinet to each potential subcontractor. The broker shall meet with potential subcontractors as a regional group, or on an individual basis, to discuss and clarify the orientation packet. The packet shall at a minimum include:

(a) How payment will be made;
(b) Rates;
(c) Vehicle requirements;
(d) Driver conduct;
(e) Driver qualifications;
(f) Reporting requirements;
(g) Communication systems;
(h) Pickup and delivery standards;
(i) Training;
(j) Drug and alcohol testing;
(k) Safety;
(l) Confidentiality;
(m) Levels of transportation;
(n) Escort and attendants;
(o) Contract compliance; and
(p) Scheduling and availability and standard state transportation requirements.

(2) Orientation meetings between the broker and subcontractor shall be held before the subcontractor provides transportation services. Subsequent meetings may be held to clarify new policies and administrative regulations, or as directed by the cabinet.
Section 8. Subcontractors/Volunteers. (1) A subcontractor, who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area, shall meet human service transportation delivery requirements, including proper operating authority by county or city.

(2) The subcontractor shall not enter into an agreement with a broker without the prior approval of the Transportation Cabinet. Each broker shall submit and request approval of the cabinet for each potential subcontractor. The subcontractor shall submit the following documentation to the broker:
(a) A copy of the subcontractor's operating authority;
(b) Proof of the subcontractor's vehicle liability insurance; and
(c) The draft of the broker and subcontractor's agreement, which shall include business name, hours of operation, rates, driver qualifications, vehicle qualifications, pickup and delivery standards and compliance penalty provisions.

(3) Brokers and subcontractors shall ensure and provide documentation to the cabinet that all drivers during employment shall:
(a) Be legally licensed by the Commonwealth of Kentucky to operate the transportation vehicle to which they are assigned;
(b) Be competent in their driving habits;
(c) Be courteous, patient and helpful;
(d) Be at least eighteen (18) years of age;
(e) Have no more than two (2) convictions for moving violations in the last three (3) years,
(f) Have no prior convictions for a drug or alcohol-related offense in the last five (5) years, if a driver or attendant;
(g) Have no convictions of any sexual crime or crime of violence;
(h) Have a preemployment drug test;
(i) Receive orientation and safety training;
(j) Have a drug and alcohol policy; employee lists for drug pools;
(k) Have lease agreements;
(l) Have completed nonemergency Medical Assistance Program Forms 343 and 343B; and
(m) Have vehicle inventory lists.

(4) Any person who has been convicted of a felony during the last five (5) years shall drive or attend passengers only after review and approval by the broker, subcontractor and the cabinet.

(5) If requested, the transportation broker shall provide mileage reimbursement to a volunteer transportation provider. The broker shall obtain proof of insurance and a valid driver's license from the volunteer provider.

(6) The subcontractor and the private auto provider shall submit a valid invoice to the broker by the first of each month to allow for accounting, payment processing, and mailing time for payment to be paid within three (3) business days of payment received from the cabinet.

(7) A valid invoice postdated after the fifth shall be included in the next month's billing.

(8) Subcontractors and private auto providers shall submit all valid invoices within six (6) months of the date of service for reimbursement by the broker.

(9) A subcontractor shall report to the broker any moving violations or traffic accidents.

(10) A subcontractor shall not participate in determining recipient eligibility or type of transport.

Section 9. Scheduling. (1) The recipient or his or her guardian shall call the regional broker of the recipient's county residence at least seventy-two (72) hours prior to the scheduled appointment to schedule a trip.

(2) All brokers shall offer scheduling and transportation services between 8 a.m. to 4:30 p.m., Monday through Friday, and 8 a.m. to 1 p.m. on Saturday. In addition, transportation services shall be offered between 8 a.m. to 8 p.m., Monday through Friday. Scheduling and business functions may be closed for New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

(3) The broker shall have, at a minimum, paging services after normal scheduling periods for urgent care services. Urgent care shall be provided twenty-four (24) hours a day, seven (7) days a week, including any holiday. Urgent care may be scheduled or requested anytime. TANF recipients may have a need for immediate transportation from employment or training, including transport of a recipient's child from a daycare facility, due to an illness or a family emergency. An immediate transportation need may be scheduled or requested anytime.

(4) The broker may schedule and provide trips for recipients after the normal scheduling hours for special circumstances. The broker may provide the eligible recipient transportation service and may contact the cabinet for guidance. For purposes of this section, special circumstances shall include, but not be limited to, dialysis treatments available only on weekends, or TANF transportation for evening shift employment.

(5) The broker shall collect the vital information, name, address of pickup and delivery, date, time of appointment, special needs, such as child safety seats, lift-equipped vehicle, program identification, and phone number to be included on each incoming call.

(6) The broker shall confirm the trip has been scheduled.

(7) In order to waive the seventy-two (72) hour notice requirement, the licensed medical provider verification may be transmitted in any of the following methods:
(a) Written verification on the licensed medical provider's letterhead delivered by the person directly to the broker;
(b) Written verification transmitted electronically by computer or by facsimile. The transmittal shall include the licensed medical provider's letterhead or office name and be submitted from the licensed medical provider's office directly to the broker's office; or
(c) Oral verification over the telephone. If written verification cannot be submitted, the broker may initiate a call to the licensed medical provider requesting oral verification that the recipient must be seen at the appointed time. If the licensed medical provider initiates the call, the broker may return the call to verify legibility of the call.

Section 10. Eligibility. (1) With the cabinet's direction, each broker shall have direct computer access to all relevant data bases needed to determine eligibility. If there is a question regarding eligibility, and time does not warrant technological updates, the broker shall contact the cabinet for assistance in determining eligibility. The cabinet shall initially investigate all complaints regarding subcontractors and the broker for the area and attempt to immediately resolve the problem. The cabinet shall forward all complaints relating to Medicaid fraud or abuse to the Cabinet for Health Services.

(2) Nonemergency medical recipients who do not require escorts or special-equipped vehicles, may be transported by taxi, community and city bus, or private auto and shall be coordinated by the broker to the greatest extent possible. Escorts or attendants shall be individuals whose presence is required to assist a recipient during transport.

(3) The broker shall ensure that an escort accompanies all Certificates of Type 07 recipients. One (1) escort only shall be required for each recipient. A family member may serve as an escort. One (1) escort may serve several recipients if the recipients are grouped and have the same destination. Escorts shall not be charged a fare.

Section 11. Standards for Passengers. (1) Passengers may be coordinated with the general public population for transportation services.

(2) Passengers shall give all pertinent information needed to the broker's dispatcher, such as escort required or special needs. If the recipient is under the TANF Program, the recipient shall convey to the broker the number of children to be transported.

(3) Transportation to childcare shall not be provided under nonemergency medical transportation unless the child is an eligible recipient and in need of covered medical service.

(4) Recipients shall not be under the influence of alcohol or illegal drugs.

(5) Recipients shall be ready within fifteen (15) minutes before scheduled pickup.

(6) Recipients shall abide by signs in the vehicle, such as no food, unless medically necessary.

(7) Recipients shall abide by the nonsmoking requirement and observe safety rules.

(8) Recipients shall abide by applicable safety seat belt administrative regulations.

(9) Recipients shall not hold children in laps.

(10) Recipients shall call seventy-two (72) hours in advance for the transport unless it is urgent care or verified by a licensed medical
provider request in accordance with Section 11 of this administrative regulation.

(11) Recipients shall cancel the trip as soon as possible, but no less than twenty-four (24) hours in advance.

(12) Recipients that engage in violent, seriously disruptive or illegal contact may lose their transportation privileges. Privileges shall be removed with approval from the cabinet and applicable state agency.

(13) If a recipient poses an immediate danger to the driver or other passengers, the driver shall call for emergency assistance.

(14) Recipients shall have the right to call a broker or the cabinet’s toll free phone lines to lodge a complaint.

(15) Failure to abide by subsections (3) through (14) of this section shall be cause for trip denial.

Section 12, Education: (1) The broker shall develop and submit to the cabinet for approval its policies relating to denial process and no-show process. The broker shall also submit to the cabinet for approval educational material developed by the broker.

(2) Educational packets developed by the broker or the cabinet for distribution in the broker’s region shall include:

(a) Regional information on scheduling transportation services, including broker normal hours of service;

(b) Scheduling procedures, including weekends and holidays;

(c) Routes for the general public transportation;

(d) Information on what recipients are required to submit to the broker;

(e) Types of eligible transportation, including pick-up and delivery standards and reasons service may be denied;

(f) Permissibility of escorts and attendants;

(g) Procedures governing requests for urgent care and immediate TANF transportation;

(h) Standards for driver and passenger conduct; and

(i) Oral and written instructions governing the complaint process and how to lodge a complaint against a subcontractor, a broker or a recipient.

Section 13, Cabinet Monitoring and Oversight: (1) The cabinet shall be satisfied as to the operational readiness of the broker. The broker shall demonstrate operational readiness in the following areas:

(a) Hours of service and operation;

(b) Scheduling procedures;

(c) Pickup and delivery standards;

(d) Urgent care and immediate TANF transportation;

(e) Driver conduct and driver qualification and training;

(f) Passenger requirements;

(g) Vehicle requirements, inspections and vehicle inventory;

(h) Back up service;

(i) Appeals and complaint procedures;

(j) Telephone systems and reporting procedures, including ODY;

(k) Computer and technological capabilities;

(l) Driver manifest form procedures submittal and receipt;

(m) Roles and job descriptions of staff;

(n) Educational and orientation procedures; and

(o) Develop a cabinet approved operational procedures manual for each region.

(2) Each region shall submit a monthly report to the cabinet on the operation of the program. The report shall include:

(a) The number of transportation services provided;

(b) The number of complaints received and resolved;

(c) The number of recipients who used the services;

(d) The number of trips canceled;

(e) The number of trips denied;

(f) Any other information requested by the cabinet.

(3) The broker shall make itself/itself available for visits by the cabinet on a periodic basis to assess operations and discuss service issues. At a minimum, one (1) meeting shall consist of a comprehensive compliance review. The brokers shall also make themselves available for periodic conference calls with the Office of Transportation Delivery to discuss issues, policy and procedures.

(4) The broker shall provide the cabinet with a monthly report on the operation of the program. The report shall include:

(a) The number of transportation services provided;

(b) The number of complaints received and resolved;

(c) The number of recipients who used the services;

(d) The number of trips canceled;

(e) The number of trips denied;

(f) Any other information requested by the cabinet.

(5) Each broker shall submit a monthly report to the cabinet on the operation of the program. The report shall include:

(a) The number of transportation services provided;

(b) The number of complaints received and resolved;

(c) The number of recipients who used the services;

(d) The number of trips canceled;

(e) The number of trips denied;

(f) Any other information requested by the cabinet.

Section 14, Right to Choose Transportation Provider: (1) Persons participating in the human service transportation delivery program and designated a level of eligibility under a Certificate Type 07 or 08 shall be ensured the freedom of personal choice in selecting an eligible provider, which may include the broker within the delivery area in accordance with 2000 Ky. Acts ch. 346.

(2) The broker shall schedule the trip with a participating provider if the recipient does not express a preference. A person expressing a personal preference under this section shall contact the broker in accordance with 2000 Ky. Acts ch. 346, to arrange transportation services, even if the person is requesting an eligible subcontractor to provide the services.

(3) In accordance with 2000 Ky. Acts ch. 346, the broker may select themselves or themselves if the broker also provides transportation services; however, the broker shall establish a scheduling and reservation system of trip distribution approved by the cabinet. If the recipient allows the broker to choose a provider, the criteria for trip distribution shall include, in order of priority:

(a) Coordination;

(b) Cost efficiencies; and

(c) If the first two (2) criteria are not met, the broker shall rotate 07 and 08 trips among providers including the broker.

(4) The broker and transportation provider shall evaluate routes presently utilized by the eligible recipients. If the broker determines that a route is inefficient, the broker shall elect a more efficient route.

(5) The Transportation Cabinet shall resolve any disputes regarding choice of transportation provider.

Section 15, Cabinet Responsibilities: (1) Pursuant to KRS Chapter 45A, the Transportation Cabinet shall select and contract with a transportation broker in each region set forth in this administrative regulation.
(2) The cabinet shall establish provider rates for each certificate type for each human service transportation delivery area. The rates shall be uniform for the same certificate type for all providers, including the broker in each delivery area. The following factors shall be considered in determining the rates:
(a) Geographical terrain;
(b) Trip distance;
(c) Recipient population;
(d) Availability of medical and employment facilities;
(e) Labor and economic factors; and
(f) Utilization of services.

Section 16, Safety and Accountability. (1) The broker and subcontractors shall maintain all records for five (5) years.
(2) All broker employees and employees of the subcontractors shall sign confidentiality statements regarding access to and disclosure of confidential information or records.
(3) Collection and retention of records to be maintained by each broker and subcontractor pertaining to human service transportation delivery shall include, but not be limited to, encounter data, complaint tracking, monthly summary reports, trip reports, subcontractor requests, audits, line-item budgets or monthly pay document submittals.
(4) Collection and retention of encounter data on each trip shall be made by the broker, if the broker provides transportation services and by each subcontractor.
(5) Failure of a broker to record all data and broker trips required by the cabinet shall be grounds for the cabinet to terminate the broker's contract.
(6) Each transportation broker/provider and subcontractor subject to the provisions of 601 KAR 1:005 shall comply with the provisions of that administrative regulation.
(7) Each transportation broker/provider and subcontractor not subject to the provisions of 601 KAR 1:005 shall comply with the provisions of the following federal regulations:
(a) 49 CFR 653, "Prevention of Prohibited Drug Use in Transit Operations", effective October 1, 1999;
(8)(a) Each transportation broker/provider and subcontractor who operates a motor vehicle which is not subject to the provisions of 601 KAR 1:005, shall maintain each of the vehicles in a safe operating condition.
(b) Each motor vehicle being operated pursuant to the provisions of this administrative regulation, and which is not subject to the provisions of 601 KAR 1:005, shall be inspected on an annual basis by an automotive technician who has an Automotive Service Excellence (ASE) Certification.
(c) Prior to being operated pursuant to this administrative regulation, the transportation broker/provider shall have proof that the motor vehicle has passed a safety inspection by an automotive technician who has an ASE certification.

Section 17, Incorporation by Reference. (1) The following federal regulations are incorporated in this administrative regulation:
(a) 49 CFR 37, "Transportation Services for Individuals With Disabilities (ADA)", effective October 1, 1999;
(b) 49 CFR 38, "Americans With Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles", effective October 1, 1999;
(c) 49 CFR 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Program", effective October 1, 1999;
(d) 49 CFR 653, "Prevention of Prohibited Drug Use in Transit Operations", effective October 1, 1999;
(2) The documents and materials incorporated by reference in this section may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Transportation Delivery, 3rd Floor, State Office Building Annex, 126 Holmes Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. The telephone number is (502) 564-4733.

[Section 1. Definitions. (4) "Ambulatory disoriented and nonambulatory" means as defined in 567 KAR 1:005; Section 1A.]
(2) "Human service transportation" means the provision of mass transportation and taxi services to transport an individual who is eligible to receive state services from one (1) or more of the programs listed in Section 3 of this administrative regulation.
(3) "Mass transportation" means as defined in KRS 60A:040.
(4) "Mileage reimbursement" means a fixed rate per mile a motor vehicle is operated. The rate shall not exceed the expense of operating the motor vehicle. Mileage reimbursement is not considered to be a benefit or payment of wages.
(5) "Subcontractor" means a transportation provider who contracts with the regional transportation broker/provider to provide human service transportation.
(6) "Supports for community living (SCL)" means as defined in 567 KAR 1:145.
(7) "Transportation broker/provider" means the entity awarded a contract to provide human service transportation in a specified region.
(8) "Volunteer transportation" means transportation provided by a person or entity as a charitable act without the expectation of receiving a benefit or being paid a wage.

Section 2, Human Service Transportation Region. The Transportation Cabinet shall divide the state into sixteen (16) human service transportation regions. The regions shall consist of the following counties:
(a) Region 1: a) Bellard; b) Galloway; c) Carlisle; d) Fulton; e) Graves; f) Hickman; g) Marshall; and h) McCracken.
(b) Region 2: a) Caldwell; b) Christian; c) Crittenden; d) Hopkins; e) Livingston; f) Lyon; g) Muhlenberg; h) Todd; and i) Trigg.
(c) Region 3: a) Daviess; b) Hancock; c) Henderson; d) McLean; e) Ohio; f) Union; and g) Webster.
(d) Region 4: a) Breckinridge; b) Grayson; c) Hardin; d) Larue; e) Marion; f) Meade; and g) Nelson.
(e) Region 5: a) Adair; b) Allen; c) Barren; d) Butler; e) Edmonson; f) Green; g) Hart; h) Logan; i) McCallister; j) Taylor; and k) Simpson.
Section 3: Service Programs: (1) Human service-transportation delivery shall be made available to each eligible participant in the following program groupings:

(a) Nonemergency medical transportation pursuant to KRS Chapter 255 and 907 KAR 3:065; excluding nonemergency ambulance stretch transportation;

(b) Mental health, mental retardation, developmental disabilities, and substance abuse services pursuant to KRS Chapters 202A; 202B; 216; or 645;

(c) Kentucky Works Program pursuant to KRS Chapters 194 or 195 and 904 KAR 2:018;

(d) Aging pursuant to KRS Chapters 206, 209, 216, or 273;

(e) Vocational rehabilitation pursuant to KRS Chapters 151B or 157; and

(f) Vocational rehabilitation for the blind pursuant to KRS Chapter 151B or 165.

(2) The state government agency responsible for implementing the programs set forth in subsection (1) of this section shall provide to the Transportation Cabinet:

(a) A list of the persons eligible to receive human service-transportation services pursuant to the programs set forth in subsection (1) of this section;

(b) The address of each person on the list;

(c) The program for which each person on the list is eligible; and

(d) The administrative regulation setting forth the human service transportation requirements of the program.

(3) In order to deal with this program in an orderly manner and so as not to overwhelm the administrative functions of the transportation providers/brokers and the participating cabinet, the Transportation Cabinet may phase in the implementation of this administrative regulation by region or program.

(4) Right to choose:

(a) Brokers shall provide the right to choose any participating provider in the regional network to eligible persons. Eligible persons are those individuals who are nonambulatory, or ambulatory disoriented and are currently in the Medicaid Support for Community Living (SCL) Waiver Program;

(b) If the eligible recipient's first choice is unavailable, the recipient shall have the opportunity to select a second choice from the participating providers in the region;

(c) The broker shall schedule the trip with a participating provider if the recipient does not express a preference.

(5) The broker and transportation provider shall evaluate routes presently utilized by the eligible recipient; if the broker determines that a route is inefficient and under the Coordinated Human Service Transportation Delivery Network Plan, the broker shall offer a more efficient route which meets the approval of the affected eligible recipient;

(6) The Transportation Cabinet shall resolve any disputes regarding eligible recipient's routes and provider choices.

Section 4: Transportation Broker/Provider: (1) Pursuant to KRS Chapter 45A, the Transportation Cabinet shall select and contract with a transportation broker/provider in each of the sixteen (16) regions set forth in Section 2 of this administrative regulation.

(2) The transportation broker/provider shall operate the human service transportation delivery service pursuant to the Transportation Cabinet's "Kentucky Coordinated Human Service Transportation De-
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

liveway Network Plan. This shall include:

(a) Recruiting transportation providers;
(b) Making payment to transportation providers;
(c) Verifying recipient's eligibility;
(d) Determining the appropriate type of transportation for each recipient;
(e) Establishing a reservation confirmation system for recipients; and
(f) Maintaining all records for five (5) years.

The transportation broker/provider shall not enter into an agreement with a subcontractor without the prior written approval of the Transportation Cabinet.

If requested, the transportation broker/provider shall provide mileage reimbursement to a volunteer transportation provider.

The Transportation Cabinet shall conduct monitoring activities to ensure compliance with the requirements of the human service transportation delivery programs.

Section 5. Financing. (1) Funding for the human services transportation program shall be provided to the Transportation Cabinet from the following sources:

(a) Health Services;
(b) Families and Children; and
(c) Workforce Development.

(2) The funding shall be annually determined by considering the following:

(a) The amount of funding the agency has cost the agency.
(b) Number of persons projected to be eligible for human service transportation;
(c) Services needed; and
(d) Negotiations between the cabinet.

Section 6. Program Administration Contracts. (1) Each funding cabinet shall enter into a program administration contract with the Transportation Cabinet.

(2) A program administration contract shall set forth the following provisions:

(a) Amount of funding for each program;
(b) Monitoring of transportation providers; and
(c) Reimbursement through either a capped fee or fee for service to transportation providers.

(d) Recordkeeping, accounting, and reporting procedures to be maintained by the Transportation Cabinet;

(2) Annual renegotiation of funding amounts for each program.

Section 7. Safety and Accountability. (1) Each transportation broker/provider and subcontractor shall comply with the safety and operational provisions of the Transportation Cabinet's Kentucky Coordinated Human Service Transportation Delivery Network Plan.

(2) The following federal regulations are adopted as part of this administrative regulation and shall govern each transportation broker/provider and subcontractor:


(3) Each transportation broker/provider and subcontractor subject to the provisions of 601-KAR-1:016 shall comply with the provisions of the administrative regulations:


(4) Each transportation broker/provider and subcontractor not subject to the provisions of 601-KAR-1:016 shall comply with the provisions of the following federal regulations:


(5) Each transportation broker/provider and subcontractor who operates a motor vehicle which is not subject to the provisions of 601 KAR-1:005 shall maintain each of the vehicles in a safe operating condition:

(b) Each motor vehicle being operated pursuant to the provisions of this administrative regulation and which is not subject to the provisions of 601-KAR-1:005 shall be inspected on an annual basis by an automotive technician who has an automotive service excellence (ASE) certification;

(c) Prior to being operated pursuant to this administrative regulation, the transportation broker/provider shall have proof that the motor vehicle has passed a safety inspection by an automotive technician who has an ASE certification.

Section 8. Operating Authority. Except for a volunteer provider, each transportation provider shall have operating authority issued by the Transportation Cabinet pursuant to KRS Chapter 201 or 96A.

Section 9. Adoption and Incorporation by Reference. (1) The Kentucky Transportation Cabinet's "Kentucky Coordinated Human Service Transportation Delivery Network Plan," as effective March 1998, is hereby incorporated by reference as a part of this administrative regulation.

(b) The following federal regulations are adopted as part of this administrative regulation:


(2) The following federal regulations are adopted as part of this administrative regulation:

(a) 49 CFR 97, "Transportation Services for Individuals With Disabilities (ADA)," effective October 1, 1997.


(3) The documents and materials adopted or incorporated by reference in this section may be viewed, copied, or obtained in the Division of Multimodal Programs, 3rd Floor, State Office Building Annex, 125 Holmes Street, Frankfort, Kentucky 40622. The office hours are 8 a.m. to 4:30 p.m. on weekdays. The telephone number is (502) 564-7433.

JAMES C. CODELL, III, Secretary
GERI GRIGSBY, Executive Director

APPROVED BY AGENCY: August 11, 2000
FILED WITH LRC: August 14, 2000 at 4 p.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on September 22, 2000, at 10 a.m. local prevailing time in the Transportation Cabinet, Training Rooms A and B, 1st Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622. Persons wishing to attend this meeting must notify this agency in writing by September 15, 2000. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comments hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your request by September 22, 2000. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will be accepted until the close of business on September 22, 2000. Send written notification of intent to attend public comment hearing or written comments on the administrative regulation to: Charles Harman, Staff Assistant, Transportation Cabinet, Office of General Counsel/Legislative Affairs, State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-7650, Fax: (502) 564-5236.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charles Harman

(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes additional guidelines for human service transportation delivery.

(b) The necessity of this administrative regulation: Required by 2000 Ky. Acts ch. 346.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation has been drafted in accordance with KRS Chapter 13A and 2000 Ky. Acts ch. 346.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provide a clear mechanism to inform the public of the cabinet's requirements and policies regarding human service transportation delivery.

(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: Established a pool of coordinators, choice for types 07 and 08, and uniform standards for brokers.

(b) The necessity of the amendment to this administrative regulation: Required by 2000 Ky. Acts ch. 346.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation has been drafted in accordance with KRS Chapter 13A and 2000 Ky. Acts ch. 346.

(d) How the amendment will assist in the effective administration of the statutes: Provide additional information and further clarifies the program as identified.

(3) List and type the number of individuals, businesses, organizations, local governments affected by this administrative regulation: There are between 500,000 and 600,000 Kentuckians who are eligible for Human Services Transportation under the provisions of this administrative regulation. There will be 15 transportation brokers governed by the provisions of this administrative regulation. There are approximately 200 transportation providers (entities such as taxicab companies, transit operators, and community action agencies) who will be affected by this administrative regulation. There are four state government cabinets involved in the Human Services Transportation Program.

(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment. Type 07 and 08 will have choice of provider for transportation. Brokers may have fewer opportunities to coordinate the scheduling of services.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None known.

(b) On a continuing basis: None known.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State and federal funds.

(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: An increase in administrative costs is expected due to the hiring of four coordinators.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increase any fees: No fees.

(9) TIERING: Is tiering applied? No. All who qualify will be eligible to participate.

EDUCATION, ARTS AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of District Support Services
(Amendment)

702 KAR 3:090. Depository bond, penal sum.

RELATES TO: KRS [156:691] 160.570
STATUTORY AUTHORITY: KRS 160.570
NECESSITY, FUNCTION, AND CONFORMITY: [KRS 156:691 requires that administrative regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990] and KRS 160.570 requires each local board of education - designated depository of funds to execute bond for the faithful performance of its duties, and the [such] bond shall [to] be approved by local board and the Commissioner of [State Board for Elementary and Secondary] Education. KRS 160.570 also [it] defines the nature and qualifying sureties for the [such] bond(s) and requires the state board to regulate the penal sum of the bond. This administrative regulation establishes standards for the [provides for certain requirements relative to] bonds of depository.

Section 1. [It shall be the duty of each local board of education:] On the advice of the superintendent, a local board of education shall [to] determine the penal sum of the bond of depository.

Section 2. A [Ne] depository bond shall not be approved by the Commissioner of [State Board for Elementary and Secondary] Education if [which] in the commissioner's [its] opinion it is inadequate to insure the deposits of the local board of education.

Section 3. (1) As security for the [this] bond, the depository bank shall deposit with its escrow agent[,] collateral in an amount equal to the penal sum of the bond. The [bonds] The collateral shall consist of:

(a) United States Government Bonds;

(b) Kentucky School Revenue Bonds; or

(c) Federal government agency obligations, including [such as] obligations of the Federal Farm Credit Banks, the Federal National Mortgage Association, and the Federal Home Loan Bank.

(2) The escrow agent shall file safekeeping receipts with the local board of education as evidence that collateral has been pledged in accordance with the provisions of the bond executed by the depository institution. A [At no time may the] local board of education shall not permit a reduction of the collateral of a bond without execution of a new bond with prior approval of the Commissioner of Education [chief state school officer and subsequent reporting of such to the state board].

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 14, 2000
FILED WITH LRC: August 14, 2000 at 1 p.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 22, 2000, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: Kevin Noland, Office of Legal Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4174, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland
(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for bonds of depository in local school districts.

(b) The necessity of this administrative regulation: KRS 160.570 requires local boards of education-designated depository of funds to execute bond for the faithful performance of its duties.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the standards that school districts must use to comply with KRS 160.570.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides a clear directive for local school districts; it also
establishes that bonds of depository will be determined consistently in all 176 school districts.

(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 current administrative regulation requires approval of the bond of depository by the Kentucky Board of Education. The 2000 General Assembly amended KRS 160.570 to require bonds of depository to be approved by the Commissioner of Education rather than the Kentucky Board of Education.
   (b) The necessity of the amendment to this administrative regulation: The 2000 General Assembly amended KRS 160.570 and thereby dictated this change.
   (c) How the amendment conforms to the content of the authorizing statutes: This amendment causes the administrative regulation to be in compliance with the appropriate statute.
   (d) How the amendment will assist in the effective administration of the statutes: This amendment will decrease the amount of time required for approval of the bond of depository.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 176 school districts.

(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: Negligible impact. The approval of the bond of depository will occur more quickly.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No costs are involved.
   (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: No costs are involved.

(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: N/A costs are involved.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of District Support Services
(Amendment)


RELATES TO: KRS 156.160(1)(l), (j), 157.060
STATUTORY AUTHORITY: KRS 156.160(1)(l), (j)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1)(l) requires the Kentucky Board of Education to establish a uniform series of financial forms for local school districts. KRS 157.060 requires a local district to submit an annual financial report. This administrative regulation establishes the forms and dates of filing for Kentucky Board of Education financial archives and the criteria for disapproval of budgets.

Section 1. The documents which become a part of Kentucky Board of Education archives shall be electronically submitted to the Division of School Finance [electronically] in the following adopted formats prescribed by the Municipal Information System (MUNIS) and received by the Division by the following dates annually:
   (1) Tentative Budget, (MUNIS Tentative Working Budget, dated August, 1997), May 30;
   (3) Balance Sheet (MUNIS Group Code Balance Sheet, dated August, 1997), July 25; and
   (4) Working Budget (MUNIS Working Budget, dated August, 1997), September 30.

Section 2. (1) A district board of education shall prepare a tentative and working budget showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, and the estimated amount that will be received from the common school fund, from taxation, and other sources. The working budget shall be disapproved by the Kentucky Board of Education if it is financially unsound or fails to provide for:
   (a) Payment of maturing principal and interest on any outstanding voted school improvement bonds of the school district, authorized and issued pursuant to KRS 162.080 and 162.080 with the written approval of the Kentucky Board of Education;
   (b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of a school district as authorized and provided under the provisions of KRS 162.120 to 162.300, 162.385 and 58.010 to 58.140, with the written approval of the Kentucky Board of Education;
   (c) Fails to comply with any applicable law.

(2) The Kentucky Board of Education shall state the reason for disapproval, and the district board of education shall amend its budget to obviate the reason for disapproval and resubmit the budget to the Kentucky Board of Education for final approval.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:
   (a) Tentative Budget (MUNIS Tentative Working Budget, dated August, 1997);
   (b) Annual Financial Report (MUNIS Annual Financial Report, dated August, 1997);
   (c) Balance Sheet (MUNIS Group Code Balance Sheet, dated August, 1997); and
   (d) Working Budget (MUNIS Working Budget, dated August, 1997).

(2) This material may be inspected, copied, or obtained at the Department of Education, Office of District Support Services, Capital Plaza Tower, 15th Floor, 500 Mario Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 14, 2000
FILED WITH LRC: August 14, 2000 at 1 p.m.
PUBLIC HEARING: A public hearing on the proposed administrative regulation shall be held on September 22, 2000, at 10 a.m., in the State Board Room, First Floor, Capital Plaza Tower, 500 Mario Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: Kevin Noland, Office of Legal Services, Department of Education, 500 Mario Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland

(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation establishes the criteria for disapproval of budgets, and it establishes the forms and dates of filing for the Kentucky Board of Education financial archives.
   (b) The necessity of this administrative regulation: KRS 156.160 requires the Kentucky Board of Education to establish a uniform series
of financial forms for local school districts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation implements the directives of KRS 156.160 and 157.060.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides a uniform method of collecting financial information from local school districts.

(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 provides additional guidance in the preparation of the tentative and working budgets with specific directions to provide for payment of maturing principal and interest on any outstanding voted school revenue bonds and rentals.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement changes resulting from passage of HB 658 (2000 General Assembly).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment implements the provisions of KRS 156.160 and 157.060.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides for consistent filing of documents and provides the additional guidance necessary for the proper budgeting of debt service and lease payments.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 176 local school districts.

(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: There will be little impact on local school districts. The amendment establishes in administrative regulation the guidance that has been provided school districts for decades.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No costs are involved.

(b) On a continuing basis: No costs are involved.

(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funds are needed.

(6) 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 fees are involved.

(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of District Support Services
(702 KAR 4:160. Capital construction process.
RELATES TO: KRS 156.160, 157.420, 162.060, 162.065, 162.070, 160.160, 322.360
STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.420, 162.060, 162.065
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education (KBE) [State Board for Elementary and Secondary Education (SBESH)] to prescribe administrative regulations relating to construction of public school buildings and the use of uniform forms. KRS 157.420 requires each school district's capital outlay to be utilized in accordance with the district's facility plan. KRS 162.060 requires approval of all school building plans and specifications by the chief state school officer. KRS 162.065 requires the KBE [SBESH] to prescribe administrative regulations governing construction managers. KRS 162.070 requires school construction contracts to be awarded to the lowest and best responsible bidder. KRS 322.360 requires a school district, when engaged in the construction of any public work involving engineering, to utilize an architect to directly supervise the execution of the plans and specifications, estimates, and the execution of construction. This administrative regulation prescribes the procedures and criteria for the construction of public school buildings.

Section 2. Construction Project Application. (1) The board shall submit an application on form BG #1 to the division for approval of a proposed construction project.
(2) An application shall be submitted for any project:
(a) Funded by Support Education Excellence in Kentucky (SEEK) capital outlay, [special voted building tax funds] Facility Support Program of Kentucky (FSPK) funds as provided by KRS 157.620, School Facilities Construction Commission (SFCC) funds, or building funds as provided by KRS 160.476; or
(b) Proposing construction of a new building, addition, or alteration of an existing building which requires design by an architect for a building or building system.
(3) To initiate a project which is listed in its facility plan or a minor project permitted in subsection (9) of this section, a vote by the board approving the project shall be required.
(4) When SFCC funds are included in the financing plan, projects shall be selected in prioritized order. If no SFCC funding is included in the financing plan, the board may select a [any] project on its facility plan without regard to priority number.
(5) If a project exceeds $250,000, the superintendent shall submit the BG #1 [in-person] to the division, and shall review [discuss] the project scope and financing plan with the division.
(6) The BG #1 shall be accompanied by:
(a) A copy of the board's action, either by official board minutes or an unofficial excerpt signed by the board secretary verifying authenticity, approving the application; and
(b) A narrative justification of the construction project selection, including its priority over other projects relative to district goals and maximization of funding and benefits to students.
(7) Within sixty (60) days of receiving the completed application documents, the BG #1 shall be approved by the division, if justified pursuant to the following criteria:
(a) Proposed project is on the facility plan or conforms to minor
project criteria in subsection (9) of this section;
(b) SFCC funding does not exceed the SFCC maximum budget established for the project;
(c) Application has original signatures;
(d) A board order; and
(e) The narrative justification.

(4) The Division of Finance, KDE, may give tentative approval based on a review of the board's ability to support the financing plan for the proposed construction budget.

(9) The board may submit a BG #1 for minor projects not listed in the facility plan if the project meets the following criteria:
(a) Expansion of a permanent center or functional center to include a maximum of four (4) classrooms when documentation to support the request is provided for either student population growth or curriculum changes;
(b) Campus enlargement, minor renovation of buildings and building systems, or construction of an additional support space at permanent or functional centers when its need can be documented and justified; or
(c) Projects to comply with statutes and administrative regulations of other agencies having jurisdiction.

(10) If no action is taken by the board within one (1) year from the date of the BG #1 approval, the approval shall be no longer effective.

(11) If the division considers the architect, CM, or board to be nonresponsive or causing undue delays in the design schedule, it may request the chief state school officer to revoke the BG #1 approval.

(12) If an emergency requiring the submission of a BG #1 occurs:
(a) The emergency shall be declared in accordance with KRS 424.280 or 45A.380, whichever is applicable; and
(b) The board shall:
1. Notify the division and request approval to proceed with the plans and corrective action;
2. Submit to the division:
   a. BG #1;
   b. Copy of board order declaring the emergency; and
   c. Copy of the written determination as required by KRS 45A.380 for those districts which have adopted the Model Procurement Code.

Section 3. Local Board Oversight Responsibilities. (1) All construction files and records of:
(a) Board actions;
(b) Proposals;
(c) Contracts;
(d) Correspondence; and
(e) Financial documents shall be maintained by the superintendent in the central office, organized and accessible for review.

(2) If the architect or the CM determines [indicate] additional funding is justified [necessary] or a reduction of physical scope of the project is needed, the local board may [shall] approve the [a-board] action if it believes it is justified and forward it to the division.

(3) During the planning and bidding phase of the construction project, the board shall:
(a) Review bidding documents for compliance with statutes and administrative regulations, with particular attention to sales and use tax exemption when purchasing materials direct;
(b) Comply with all submission requirements resulting from the completed plans and specification review by the division;
(c) Not advertise before receipt of written approval from the division;
(d) Advertise in the newspaper having the largest circulation in the school district the following number of days prior to the date established to receive bids:
   1. $1,000,000 or less project, a minimum of seven (7) days and a maximum of twenty-one (21) days; or
   2. A project in excess of $1,000,000, a minimum of twenty-one (21) days;
(e) Hold the bid opening:
   1. In a location accessible to the public;
   2. Between 10 a.m. and 3 p.m. (local time); and
   3. Within Monday through Friday, excluding holidays;
(f) Accept the architect's and CM's evaluation of the bids and approve or reject their recommendations;
(g) Review any bid package which receives only one (1) bid to ensure specifications allowed open competition. The board may approve the contract if the bid does not exceed 110 percent of the bid estimate and is within the budget for the project;
(h) Ensure the CM completes the KDE noncollusion affidavit;
(i) Hold possession of original bidding documents;
(j) Approve and submit the successful bidders' documents to the division for review and approval of the proposed contract(s) and the financial plan; and
(k) Have in its possession prior to executing the construction contract:
1. Contractor's performance and payment bond;
2. Certificate of required insurance;
3. Written approval from the division; and
4. Bids accepted for the bond sale, when applicable.

(4) During the construction administration of the project, the board shall:
(a) Name the superintendent to speak on behalf of the board as owner in the contract documents and set the parameters of that responsibility;
(b) Seek the superintendent's recommendation relative to proposed board actions;
(c) Approve all expenditures from the construction account;
(d) Approve SFCC approval of expenditures as applicable;
(e) At least once per month receive and review written inspection and progress reports provided by the architect;
(f) [If the construction project is in excess of $250,000, forward to the division a monthly summary of payments and expenditures from the construction account after approval by the board;]
(g) Review the need for changes to the contract;
(h) [If] Assign partial or full responsibility to the proper party if additional costs are due to an oversight or omission;
(i) [If] Monitor the administration of the project by its architect and CM to ensure no prepayment is made for their services;
(j) [If] After notifying the division, hire a professional services firm experienced in architectural, engineering, accounting, or construction management services to provide an audit of the construction project if the board suspects nonfeasance or malfeasance;
(k) [If] Secure all required inspections and close out documents for submittal to the appropriate agencies;
(l) [If] Receive an occupancy permit from the Department of Housing, Buildings and Construction prior to occupying the facility;
(m) Retain a minimum five (5) percent retainage of the construction contract until the division has issued a written approval either to reduce the contract retainage or to make final payment on the contract;
(n) Contact the contractor's bonding company each month the contractor is more than two (2) weeks behind schedule or is not performing in accordance with the contract;
(o) Not hire additional architectural services outside the architect's contract without approval from the board.

(5) If federal funds or federal agencies are involved, the board may request approval from the chief state school officer to waive or condense procedures to expedite the construction design process.

(6) If a lien is filed with a court and the board is given notice of the lien, the board shall stop partial payments on the contract and contact the division. Payments may begin after:
(a) The lien has been released;
(b) The division has approved a payment schedule which provides for retaining the lien amount being contested; or
(c) The division has approved a payment schedule after a surety bond has been provided to pay the lien.

Section 4. Architectural Services. (1) The board and architect shall negotiate a contract for services required. The board shall either advertise for architectural services or select a minimum of three (3) architectural firms which shall be evaluated through the request for proposal (RFP) process. Advertisement or RFP evaluation of three (3) firms is not required if the project is estimated at less than $500,000 or is the continuation of phased construction at the same site.

(2) The architectural services shall be negotiated using the following documents:
(a) KDE Architect RFP;  
(b) AIA B151-1997, Abbreviated Standard Form of Agreement Between Owner and Architect, or AIA B414/CMA-1992, Standard Form of Agreement Between Owner and Architect, Construction Manager - Adviser Edition [AIA B414-0], or AIA B414-0ma), with KDE amendments;  
(c) KDE noncollusion affidavit; and  
(d) KDE architect fee guideline, or SFCC fee maximum.  
(3) A letter of agreement stating services, terms, and conditions which has been approved by the board shall be acceptable in lieu of the AIA B151 [AIA-B141] for projects with an estimated construction cost of less than $25,000.  
(4) The division shall review and approve the proposed architect's contract based on the following criteria:  
(a) Copy of the board action approving the terms of the proposed contract;  
(b) Scope and fee conforms to BG #1; and  
(c) Submittal of required forms.  
(5) The division shall advise the board of:  
(a) Apparent deficiencies in completion of the contract;  
(b) Discrepancies related to the scope of work and anticipated cost approved on the BG #1;  
(c) Compliance of fee to fee schedule; and  
(d) Concerns regarding modifications to the contract.  
(6) The architect shall:  
(a) Provide on-site visitation and shall report on [inspection of] and [reporting on] the construction [of the] project to the board;  
(b) Certify, to the best of his ability, professional judgment, and with due diligence, that all phases of the project have been completed in conformance with the approved plans and specifications and any authorized changes;  
(c) Provide professional liability insurance including errors and omission insurance in the following minimum amounts:  
1. Projects less than $1,000,000 require $250,000 insurance with a five (5) percent minimum deductible;  
2. Projects from $1,000,000 to $10,000,000 require $500,000 insurance with a maximum five (5) percent deductible; and  
3. Projects $10,000,000 or greater require $1,000,000 insurance with a maximum five (5) percent deductible;  
(d) Require his consultants to retain professional liability insurance including errors and omission insurance in the minimum amount of $250,000 with a maximum five (5) percent deductible;  
(e) Provide copies of certificates of insurance to the division;  
(f) Assist in preparing the bid advertisement for the board;  
(g) List projects estimated in excess of $1,000,000 with a minimum of two (2) Kentucky construction reporting services;  
(h) Submit to the board a written [inspection] report which includes a status of the project, dates and times architect was on site, conditions of the job, problems, delays, and concerns at least monthly after construction begins;  
(i) Request payment of construction administration phase fee at the same proportionate percentage as the construction's completion with five (5) [ten (10)] percent of it being retained by the board until the approval of final payment on construction;  
(j) Request approval by the board for any reimbursement or additional service prior to the service being rendered or expenditure being made;  
(k) When requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request;  
(l) Request additional payment for construction time or services which extend beyond the scheduled completion date only if the owner is successful in receiving liquidated damages. Conditions to receive payment shall be:  
1. Additional costs were incurred through no fault of the architectural firm and are documented due to the delay of the contractor; and  
2. The pro rata share shall be determined by the board as a ratio of validated architect's damages to the total of all documented damages;  
(m) Utilize his consultants listed on the contract form for design, construction administration and observation of the work [oversight];  
(n) Pay his consultants the same percentage proportion of their fee as he has received from the board;  
(o) Pay his consultants eighty (80) percent of the architect's fee based on the construction cost of the consultant's work. If the architect's fee is a lump sum, the consultant shall receive the same proportionate amount;  
(p) If a joint venture, list on the contract form, the prime architectural firm accountable to the board and provide the board with a copy of the joint venture contract indicating each party's responsibilities and fees;  
(q) Provide independent contract administration over construction contracts awarded to the project's CM; and  
(r) Not include in the construction cost calculation change orders to the contract that the board has not requested. Changes to the contract requested by the board that decrease the construction cost shall be calculated at the hourly billing rate schedule or basic fee percentage, whichever is less.  
(7) The board shall provide oversight of the architectural services in the following manner:  
(a) The architect's proposed contract shall be reviewed [and signed] by the board's attorney for compliance with the law; and  
(b) The board shall submit to the division for approval:  
1. The proposed architect contract and completed RFP;  
2. A copy of the board order approving the contract;  
3. A narrative of the evaluation process; and  
4. A copy of the certificate(s) of professional liability insurance.  

Section 5. Construction Management Services. (1) A CM shall not be employed on any project estimated at less than $1,000,000 or without the approval of the division if the number of work categories negate the need for full-time, on-site supervision for projects in excess of $1,000,000. The division may approve exceptions as follows:  
(a) If the project is a phase of a phased project and the CM is to be employed on all subsequent phases; or  
(b) If the project's complexity or fiscal soundness requires it.  
(2) In hiring a CM, the board shall either advertise for CM services or select a minimum of three (3) construction management firms which shall be evaluated through the RFP process. Advertisement or RFP evaluation of three (3) firms is not required if the project is the completion of phased construction at the same site.  
(3) The board shall negotiate a contract using the following:  
(a) KDE CM RFP;  
(b) AIA B801/CMA-1992 AIA, Standard Form of Agreement Between Owner and Construction Manager and KDE amendment;  
(c) KDE CM fee guideline or lump sum price;  
(d) KDE noncollusion affidavit;  
(e) Projected number of months construction;  
(f) On-site services fee per month; and  
(g) Fee scale for additional construction cost and months.  
(4) The number of months in the CM contract for the construction phase shall not be altered unless:  
(a) There is a change in the scope of the work; and  
(b) The owner, architect, and CM agrees to the revised number of months during the evaluation of construction bids.  
(5) The preconstruction phase payment shall be a maximum of ten (10) percent of the total proposed fee.  
(6) The CM shall:  
(a) Provide a 100 percent performance and payment bond prior to the construction contracts being executed by the board in the amount of the CM fee from an insurance firm authorized to do business in Kentucky and listed in and written within the terms and limits established in 58 Federal Register, p. 35778, 1993;  
(b) Provide professional liability insurance with errors and omissions in the following minimum amounts:  
1. Projects of $10,000,000 or less, insurance in the amount of $500,000 with a maximum five (5) percent deductible; or  
2. For projects in excess of $10,000,000, insurance in the amount of $1,000,000 with a maximum five (5) percent deductible;  
(c) Develop bid packaging to ensure at least five (5) known potential bidders are notified on each bid package;  
(d) Not transport any bidder's proposal to the bid opening;  
(e) Complete a KDE noncollusion affidavit relative to both the superintendent and local board members and the apparent low bidders;  
(f) Request approval by the board for any reimbursement or additional service fee prior to the service being rendered or expenditure
being made;

(g) When requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request;

(h) Request additional payment for construction time or services which extend beyond the scheduled completion date only if the owner is successful in receiving liquidated damages Conditions to receive payments shall be:

1. Additional costs were incurred through no fault of the construction management firm and are documented due to the delay of the contractor; and

2. The prorata share shall be determined by the board as a ratio of validated construction manager's damages to the total of all documented damages;

(i) Not include in the construction calculation change orders to the contract that the board has not requested. Changes to the contract requested by the board that decrease the construction cost shall be calculated at the hourly billing rate schedule or basic fee percentage, whichever is less; and

(j) Request payment of the construction phase fee at the same proportionate percentage as the construction's completion with five (5) percent of it being retained by the board until approval of the final payment on construction.

(7) The board shall provide oversight of the CM services in the following manner:

(a) Retain an attorney to:

1. Review the contract as negotiated to ensure compliance with the law;

2. Request modifications to the contract as needed; and

3. Sign the contract form attesting to review;

(b) Take action approving the contract terms and conditions; and

(c) Forward to the division for review and approval:

1. Copy of the RFP and proposed contract;

2. Board order;

3. Narrative of the selection evaluation;

4. Certificate of professional liability insurance; and

5. KDE noncollusion affidavit.

(8) The CM contract shall be reviewed and approved by the division based on the following criteria:

(a) A copy of board order of approval;

(b) Fee based on a lump sum amount or fee guideline;

(c) Modifications to the contract comply with laws; and

(d) Submission of required forms.

Section 6. Plans and Specifications. (1) After approval of the BG #1 application by the division, the division shall provide a procedural checklist to the board that indicates required submissions for the project.

(a) The architect shall prepare schematic plan of the proposed construction from written educational program specifications supplied by the board.

(b) The schematic plans and a copy of the educational program specifications, approved by board action with a copy of the minutes, shall be submitted by the board to the division for review and approval.

(c) The division shall review and approve the schematic plan submitted based on:

1. Site plan: proper siting of the building footprint provides appropriate access, vehicular and pedestrian circulation, separation of bus loading area from other vehicular traffic, parking, service, play and athletic areas, utility connections and drainage;

2. Floor plan: number, type, and size of the planned spaces, including support spaces, agree with the programmed spaces listed in the BG #1, the educational specifications, and are in compliance with 702 KAR 1:001 and 702 KAR 4:170;

3. Functional aspects: review of the distribution of functions, or program space and the appropriateness for the needs of the facility;

4. Building efficiency: review of the percent of net program area to gross building area to meet or exceed the guidelines of 702 KAR 1:001;

5. Budget: review of the construction cost (gross area multiplied by the [net] cost per square foot) in relation to the BG #1. If the calculated construction cost exceeds BG #1 cost, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board.

(2) After written approval of the schematic plans is received from the division, the architect shall prepare the design development plans.

(a) The board shall submit to the division for review and approval:

1. Design development plans;

2. Board order approving plans;

3. BG #2; and

4. BG #3.

(b) The division shall review and approve design development plans submitted on:

1. Site plan: proper siting of the building with respect to vehicular and pedestrian circulation, separation of bus loading area, student play areas, athletic fields, utility construction and site drainage, with details appropriately developed;

2. Floor plan: number, type, and size of the planned spaces consistent with the schematic plan;

3. Enlarged plans and details: appropriate to describe the design intention;

4. Building efficiency: the percent of net program area to gross building area meets or exceeds the guidelines of 702 KAR 1:001;

5. Budget: the probable construction cost, BG #3, is within the approved BG #1 budget. If the probable construction cost exceeds the BG #1 budget, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board;

6. BG #2 form is properly completed and conforms to the educational program specifications; and

7. Design development plans incorporate all previous schematic design review comments.

(3) After written approval of design development plans is received from the division, the completed plans and specifications and project manual shall be prepared by the architect and CM for bidding.

(a) The board shall submit to the division for review and approval:

1. Completed plans and specifications and project manual, if applicable;

2. Board order approving plans and specifications;

3. Revised BG #3; and

4. Proof of submission of completed plans to other agencies having jurisdiction.

(b) The division shall review and approve the completed plans and specifications and project manual submittals based on:

1. Compliance with 702 KAR 4:170, with special concern to redundancy and clarity during construction;

2. Each drawing [plan sheet] and cover of the project manual [specification booklet] has the architect's seal and signature affixed;

3. Documents are of sufficient detail and complexity that they may be used:

a. To obtain a building permit;

b. As instruments in the competitive bidding process; and

c. By a general contractor to construct the project;

4. BG-3 does not exceed by ten (10) percent the approved BG #1 budget;

5. Deed, certificate of title insurance to the property, deed of easements for all utilities, and proof of road and utility access for the property are filed with the division;

6. Proposed floor elevation is a minimum of one (1) foot above the 100-year flood plain elevation for new construction and no state funds are proposed for renovation below the 100-year flood plain elevation;

7. Construction documents include the following forms to the extent applicable with KDE amendments appropriate for general construction or construction management:

a. AIA A201, General Conditions;

b. AIA A201/CMa, General Conditions with CM;

c. AIA A101, Owner-Contractor Contract;

d. AIA A101/CMa, Owner-Contractor Contract with CM;

e. AIA A701, Instructions to Bidders;

f. KDE Form of Proposal;

g. AIA A310, Bid Bond;

h. AIA A312, Performance and Payment Bond;

i. [h] AIA G702, Application for Payment;

j. [i] AIA G702/CMa, Application for Payment with CM;

k. [i] AIA G701, Change Order;

l. [kt] AIA G701/CMa, Change Order with CM;

m. [kt] AIA G704, Certificate of Substantial Completion;

n. [m] AIA G704/CMa, Certificate of Substantial Completion with
CM;

1. [r.] AIA G706, Contractors' Affidavit of Payment of Debts and Claims;
2. [r.] AIA G706A, Contractors' Affidavit of Release of Liens;
3. [r.] AIA G707, Consent of Surety to Final Payment; and
4. [r.] AIA G707A, Consent of Surety To Reduction In or Partial Release of Retainage [Reduction].

8. A 100 percent performance and payment bond is required for any contract in excess of $25,000 and on all contracts using CM process from an insurance firm authorized to do business in Kentucky. The insurance firm shall be listed in the performance and payment bond shall be written within the terms and limits established in 58 Federal Register, P. 35778, 1993.

9. Contractor(s) are to carry all insurance required by law and by contract to hold the board safe from loss until the project is completed or an occupancy permit is received by the board. In the event the board elects to carry a portion of the necessary insurance, notification shall be given to the architect and CM and written into the bidding documents;

10. Notification of other state and local agencies having jurisdiction, including:
(a) Department of Housing, Buildings and Construction;
(b) Division of Code Enforcement;
(c) Division of Plumbing;
(d) Division of Water;
(e) Division of Air Quality;
(f) Local health department; and
(g) Local building inspector.

The board shall receive written approval of the construction bidding documents and authorization to bid from the division prior to advertisement for bids.

(5) Performance specification procedures may be used by the board for proposed capital construction projects. The proposed performance specifications as prepared by the board shall be approved in writing by the division prior to advertisement for bids.

(6) Leases, lease purchases, or leases with an option to purchase by a board for fixed equipment, capital construction, or alterations to existing buildings and building systems shall require the submittal of plans and specifications and lease documents to the division for review and approval.

Section 7. Construction Bidding and Contracting. (1) A minimum of ten (10) working days prior to the scheduled bond sale date, the board shall submit to KDE for review and approval:
(a) To the division:
1. Bid tabulation(s);
2. Bid security(ies);
3. Proposal form of successful bidder(s);
4. Proposed contract(s) or purchase order(s) (unsigned); and
5. Revised financial form 9G #1, page 3 to coincide with proposed construction costs;
(b) To the Division of Finance, KDE:
1. Preliminary official statement;
2. Notice of bond sale; and
3. Official terms and conditions.

(2) If the submitted documents are not in an approvable form at least five (5) working days before the scheduled bond sale, the sale date shall be postponed.

(3) The board shall contract with a fiscal agent to assist in meeting all reporting, filing, and selling requirements for securing the financial approval of KDE when school revenue bonds are proposed for sale.

(4) (a) Bids for school revenue bond sales shall be received in Frankfort, Kentucky, at:
1. Kentucky Department of Education, Office of District Support Services, 15th Floor, Capital Plaza Tower; or
2. SFCC, Capital Annex, if SFCC funds are involved.
(b) A KDE or SFCC staff member shall be present to receive the bids.
(c) Bids shall be delivered by mail, in person, by telephone, or by facsimile (fax) machine. If the apparent winning bid is telephoned, the bid shall be reaffirmed by fax within thirty (30) minutes after the bid opening.
(d) The division shall approve a proposed construction contract based on:
(i) Submission of tabulation of bids, form of proposal, bid security and proposed contract;
(ii) Board order indicating low bid was accepted or written justification provided where other than low bid is proposed;
(iii) Proposed construction contract is within approved budget; and
(iv) Form of proposal is completed in accordance with the instructions to bidders.
(v) (a) Any discrepancies between the proposed contract and bidding documents shall be remedied prior to approval.
(b) The board's desire to waive irregularities and informalities as to a bid shall be reviewed and final judgement made by the division prior to approval of the contract and financing plan.
(c) Approval of the proposed contract by division shall not indicate the contract is the best or the most reasonable.
(d) The Division of Finance, KDE, shall issue the final approval for the financing plan, authorize the bond sale, and prepare the letter for the chief state school officer's approval.
(e) No negotiation of the bid price shall be allowed, except in accordance with KRS 45A.375 for those districts under the Model Procurement Code.

Construction account expenditures that are subject to bidding shall be approved by the division, except for expenditures for moveable equipment.

(10) The board shall submit to the division:
(a) Copy of the executed contract(s) and purchase order(s);
(b) Insurance certificate(s); and
(c) Copy of the 100 percent performance and payment bond(s).

Section 8. Contract Change Orders. (1)(a) All change orders shall be submitted to the division and shall be accompanied with the following:
1. Copy of local board action approving the change order;
2. Property completed KDE Change Order Supplemental Information Form; and
3. Cost breakdown which separates labor, material, profit and overhead. If unit prices are utilized, this cost breakdown shall not be necessary.
(b) Changes in the contract which do not substantially alter the nature of the contract, or may be regarded as incidental to or which relate to an integral part of the original contract and specifications, may be approved by the division.

(c) (ef) A copy of any change order using the forms AIA G701 or AIA G701/CMa issued in connection with the project shall be signed by the appropriate parties as a recommendation and shall be subject to approval by the board.

(e) All change orders shall be submitted to the division;
(f) Any additive or deductive change order proposal in excess of $5,000 ($2,500) shall be subject to approval by the division prior to execution; authorization by the board. All change order forms shall be accompanied with the following:
(a) Copy of local board action approving the change order;
(b) Property completed KDE change order supplemental information; and
(c) Cost breakdown which separates labor, material, profit and overhead. If unit prices are utilized, this cost breakdown shall not be necessary.

(3) Approval of proposed change orders over $5,000 ($2,500) shall be based upon:
(a) Completed supplemental information form, board order, and cost breakdown;
(b) Cost is calculated according to contract unit prices or alternative method documentation is provided to support cost; and
(c) The change order scope and cost is considered within the norms based upon the information submitted; and
(d) Cumulative cost of contract and all change orders are within the approved budget.

(4) The division approval shall not indicate the change order cost is the best cost or the requested change order is the most appropriate action.
Section 9. Construction Contract Retainage. (1)(a) The board shall retain ten (10) percent from each application for payment up to fifty (50) percent completion of the work, then, provided the work is on schedule and satisfactory, and upon written request of the contractor together with written consent of surety and the recommendation of the architect, the board may approve a reduction in retainage to five (5) percent of the current contract sum. Until the construction contract is substantially performed, the board shall withhold ten (10) percent of the first $1,000,603 and five (5) percent of the completed performance above $1,000,603.

(b) Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect and approval of the board.

(c) [ce] No part of the five (5) percent retainage shall be paid until the division has made a final on-site review [inspection] of [the] completed instructional space [construction] and has provided written approval for final payment or further reduction in retainage.

(d) After substantial completion of the work, if [e][f] after receipt of the punch-list reasons for reduction of the retainage are certified in writing by the architect and approved by the board, a reduction to a lump sum amount less than the five (5) percent retainage may be approved by the division when deemed reasonable [and advisable]. The minimum lump sum amount shall be twice the estimated cost to correct deficient or incomplete work [the punch-list items].

(e) [i] The board shall request a final on-site review by the division [the final inspection] after approval of the architect's certification of substantial completion.

(2) The investment earnings resulting from any agreement entered into by a board involving the construction account, including the construction contract retainage for an approved project, shall be invested in such a manner that any additional income from the investment shall accrue only to the board.

Section 10. Construction Dispute Resolution. (1) Unresolved claims between parties arising out of or relating to any contract subject to this administrative regulation shall not utilize arbitration or the American Arbitration Association unless agreed to by all parties.

(2) Prior to the institution of legal proceedings, unresolved claims arising out of or relating to any contract shall be submitted to mediation by the Mediation Center of Kentucky, 221 [201] West Short Street, Suite 200 [301], Lexington, Kentucky or any other nonprofit mediation council approved by the division.

(3) Mediation may be initiated by written request filed by any party.

Section 11. Construction Contract Close-Out Process. (1) The architect shall furnish the board a form BG #4 with applicable information requesting final approval.

(a) If the board approves the construction contract is complete, it shall approve the BG #4 and forward it to the division for approval of the final payment.

(b) If the board does not agree that the construction contract is complete, a letter to the division shall be issued to indicate those items in contention or requiring completion.

(3) Written approval by the division authorizing full payment of the contract shall be given when the completed BG #4 form is approved.

Section 12. Penalties for Nonfeasance or Nonfeasance. (1) A determination by the board or the division of malfeasance or nonfeasance by the architect or CM shall be forwarded to the chief state school officer.

(2) The chief state school officer may make a recommendation to the KDE [SBESE] to determine that the offending firm is ineligible to provide professional services on school construction projects for a period not to exceed five (5) years.

(3) The KDE [SBESE] may prescribe alternative penalties.

(4) If the principals of the offending firm become associated with another firm(s) during the penalty period, upon recommendation by the chief state school officer the KDE [SBESE] may determine that the penalty invoked shall also apply to that firm.

Section 13. Documents Incorporated By Reference. (1) The following documents used in the capital construction process are [hereby adopted and] incorporated [herein] by reference:

(a) BG #1-May, 1993, Project Application;
(b) AIA B151-1997, Abbreviated Standard Form of Agreement Between Owner and Architect and KDE Amendment, April, 2000 [AIA B141-1987, Standard Form of Agreement Between Owner and Architect and KDE Amendment; May, 1993];
(d) KDE Noncollusion Affidavit, May, 1993;
(e) KDE Architect RFP, May, 1993;
(f) KDE Architect Fee Guidelines, May, 1993;
(g) KDE Construction Manager (CM) RFP, May, 1993;
(h) AIA B601/CMA-1992 AIA, Standard Form of Agreement Between Owner and Construction Manager and KDE Amendment, May, 1993;
(i) KDE CM Fee Guidelines, May, 1993;
(j) BG #2, May, 1993, Outline Specifications;
(l) AIA A201-1987, General Conditions of the Contract for Construction and the KDE Amendment, April, 2000 [AIA A201-1987, General Conditions of the Contract for Construction and KDE Amendment; May, 1993];
(n) AIA A101-1997, Standard Form of Agreement Between Owner and Contractor and KDE Amendment, April, 2000 [AIA A101-1997, Standard Form of Agreement Between Owner and Contractor and KDE Amendment; May, 1993];
(p) AIA A701-1997, Instructions to Bidders and KDE Amendment, April, 2000 [AIA A701-1997, Instructions to Bidders and KDE Amendment; May, 1993];
(q) KDE Form of Proposal, April, 2000 [May, 1993];
(r) AIA A310-1970, Bid Bond;
(s) AIA A312-1984, Performance Bond and Payment Bond and KDE Amendment, May, 1993;
(t) [e][f] AIA G702-1992, Application and Certificate for Payment;
(w) [tt][w] AIA G701/CMA-1992, Change Order-Construction Manager-Adviser Edition;
(y) [tt][e][i] AIA G704/CMA-1992, Certificate of Substantial Completion-Construction Manager-Adviser Edition;
(z) [tt][y] AIA G706-1992 [f][g], Contractors' Affidavit of Payment of Debts and Claims;
[aa] [tt][e][i] AIA G706A-1994 [f][g], Contractors' Affidavit of Release of Liens;
[bb] [ee][e][i] AIA G707-1994 [f][g], Consent of Surety to Final Payment;
[cc] [tt][bb] AIA G707A-1994 [f][g], Consent of Surety to Reduction in or Partial Release of Retainage;
[dd] [t][e][i] 58 Federal Register, p. 35778, 1993;
[ee] [ted] KDE Change Order Supplemental Information, April, 2000;
(ff) KDE Purchase Order Form, May, 1993;
(gg) KDE Material Supplier Authorization Form, May, 1993; and
(hh) [May, 1993; and]
(3) AIA #4, May, 1993, Final Approval and Payment Application.
(2) These documents are available for inspection, copying (subject to copyright law), and, except for the AIA documents [forms], may be obtained from the Division of Facilities Management, Department of Education, 15th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The AIA documents [forms] are available for purchase from the American Institute of Architects by [addressing the request to] AIA Order Dept., 9 Jay-Gould Court, P. O. Box 755, Waldorf, MD 20604 or by calling
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

800-365-2724.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 11, 2000
FILED WITH LRC: August 15, 2000 at 9 a.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 22, 2000, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 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 to Mr. Kevin M. Noland, Associate Commissioner, Office of Legal Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland

(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation prescribes the criteria and procedures for the construction and/or renovation of public school buildings in the Commonwealth.
   (b) The necessity of this administrative regulation: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to construction of public school buildings and the use of uniform documents.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation implements the requirements of KRS 156.160 as well as the requirements of KRS 157.420, 162.060, and 322.360.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes a consistent and uniform process for the construction and/or renovation of public schools in the Commonwealth.
   (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 adopts current editions of standard construction industry documents published by the American Institute of Architects.
   (b) The necessity of the amendment to this administrative regulation: Local school district construction/renovation projects follow industry standards. Contract documents should be updated to be consistent.
   (c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation implements the requirements of KRS 156.160 as well as the requirements of KRS 157.420, 162.060, and 322.360.
   (d) How the amendment will assist in the effective administration of the statutes: School districts will be using the same documents that are used throughout the construction industry.
   (3) List the type and number of individuals, businesses, organizations, state and local governments affected by this administrative regulation: 176 school districts.
   (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: All groups will now be using the same documents.
   (5) Provide an estimate of how much it will cost to implement this administrative regulation:
      (a) Initially: None
      (b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no costs involved.
(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 are no costs involved.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No
(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

EDUCATION PROFESSIONAL STANDARDS BOARD
(Amendment)

704 KAR 20:198. Director of special education.

RELATES TO: KRS 157.250, 161.020, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board; 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 established by the Education Professional Standards Board. This administrative regulation establishes (1) the director of special education certificate, (2) the program approval standards for the preparation-certification program for directors of special education, and (3) identifies acceptable certificates for individuals who may serve in a position which supervises, directs, administers, or coordinates special education programs.

Section 1. Definition. "Qualified applicant" means an applicant who holds the appropriate certification as a director of special education unless the superintendent of the employing school district has documented evidence that the applicant is unsuitable for appointment.

Section 2. (1) The professional certificate for director of special education shall be issued in accordance with the pertinent Kentucky statutes and administrative regulations of the Education Professional Standards Board to an applicant who has satisfied the prerequisites and who has completed an approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 704 KAR 20:666 [the-Kentucky-Standards-for-the-Preparation-Certification-of-Professional-School- Personnel] and set forth in either this section or Section 4 or 5 of this administrative regulation.
(2) As prerequisites for the Level 1 program of preparation for the initial professional certificate for director of special education, the candidate shall:
   (a) Have been admitted to a preparation program approved by the Education Professional Standards Board pursuant to 704 KAR 20:666;
   (b) Have completed three (3) years of full-time experience as a teacher or school psychologist with a minimum of one (1) year as a teacher of exceptional children or school psychologist;
   (c) Have attained Rank II certification; and
   (d) Qualify for a Kentucky teaching certificate or school psychologist certificate.
(3) If a candidate's Rank II certification is not in the educational leadership field, a teacher education institution may require additional coursework in this field as part of the Level I preparation.
(4) Application for the professional certificate for director of special education shall be made on Form TC-1.
(5) The initial professional certificate for director of special education shall be issued for a duration period of five (5) years (except as provided in Section 4(1) [Par. 4] or 5 of this administrative regulation) upon the successful completion of a Level I program approved by the Education Professional Standards Board pursuant to 704 KAR 20:666.
and shall [may] be renewed subsequently for [subsequent] five (5) year periods. The first renewal shall require the completion of a Level II program approved by the Education Professional Standards Board pursuant to 704 KAR 20:698. Each five (5) year renewal thereafter shall require the [based upon] completion [by September 1 of the year of expiration] of two (2) years of [successful] experience as a director of special education or three (3) semester hours of additional graduate credit or the equivalent related to the position of the director of special education, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program provided in KRS 156.101.

(6) If a lapse in certification occurs for lack of completion of the Level II preparation, the certification may be reissued for a five (5) year period upon successful completion of the Level II preparation, but for the lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study or the equivalent program to the program.

(7) Graduate level credit earned in the Level I and Level II preparation programs identified in this section shall be eligible for consideration of Rank I classification pursuant to 704 KAR 20:015, "Plan I" or "Plan II".

[6] Any persons whose job duties, regardless of job title, include supervising, directing, administering, or coordinating special education programs, at the district-wide level, other than those approved under the provisions of [subsection (9) of this] Section 6 of this administrative regulation, shall be required to hold one (1) of the following:

(a) The endorsement for director of special education;
(b) The professional certificate for director of special education;
(c) The endorsement for supervisor of special education;
(d) The endorsement for teacher consultant for special education; or
(e) A certificate valid for supervision of instruction for persons serving in such positions on July 14, 1992, as provided by KRS 157.250.

(f) Persons who hold a certificate valid for supervisor of instruction and are appointed after July 14, 1992, and until September 1, 1996, must comply with the requirements of Section 4 [5] of this administrative regulation.

Section 4. [2] (1) If a qualified applicant [person with qualifications identified in Section 1 of this administrative regulation] is not available for the position of director of special education the superintendent on behalf of the local board of education may request a professional certificate for director of special education for a two (2) year period for an applicant who meets the following qualifications:

(a) A valid Kentucky certificate for teachers of exceptional children;
(b) Rank II certification [A master's degree];
(c) Three (3) years of full-time experience teaching exceptional children; and
(d) Completion of a course in special and regular education code law; and
(e) Admission to the preparation program for the professional certificate for director of special education.

(2) Application for the two (2) year certificate for a director of special education shall be made on Form TC-28.
Section 7. A preparation program for the professional certificate for director of special education shall be consistent with the six (6) standards included in "Interstate School Leaders Licensure Consortium Standards for School Leaders" found in 704 KAR 20:710(2) and incorporated by reference.

Section 8. Incorporation by Reference. (1)(a) "Interstate School Leaders Licensure Consortium Standards for School Leaders" is incorporated by reference.
(b) "Form TC-1, rev. 11/99" is incorporated by reference.
(c) "Form TC-28, rev. 08/00" 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: August 15, 2000
FILED WITH LRC: August 15, 2000 at noon
PUBLIC HEARING: A public hearing on this administrative regulation will be held September 21, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 14, 2000, five work days prior to hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4605, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiedernohl
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation establishes the requirements for issuance of the professional certificate for director of special education.
(b) The necessity of this administrative regulation: This regulation establishes candidate eligibility requirements, preparation program standards, and application procedures for the professional certificate for director of special education.
(c) How this administrative regulation conforms to the content of the federal law, Title 34, Code of Federal Regulations, Part 1024 that requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.020 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Promotion of this administrative regulation, as amended, will delineate the standards for preparation programs for this certificate and the process by which candidates may obtain and maintain certification as a director of special education.
(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 administrative regulation reflects changes in the preparation and certification of directors of special education. The amendment adopts the Interstate School Leaders Licensure Consortium (ISLCC) Standards as the basis for the preparation curricula; eliminates the emphasis on "seat-time": i.e., a specified number of hours that must be completed; stresses performance-based assessments; and aligns this certification program in accord with other education administration programs and the new master's level principal certification (which allows preparation for other administrative certificates, such as supervisor of instruction, to begin at an earlier level). Material has been incorporated by reference.
(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation governing the preparation and certification of directors of special education will allow for the effective and efficient operation of these preparation programs and reflect the current standards and requirements expected for certification. The alignment of the education administration programs will allow teachers/administrators pursuing these programs greater flexibility in completing the programs.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.028 requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.020 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board. The amendment alters the preparation and certification requirements by setting new eligibility, preparation, and completion standards.
(d) How the amendment will assist in the effective administration of the statutes: Promulgation of this rule, or changes in the rule, will delineate the preparation and certification requirements for receiving the certification for director of special education.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The education administration programs at Kentucky colleges and universities will amend their preparation programs for director of special education to reflect the new standards set forth in the administrative regulation. Candidates/program administrators in Kentucky offer this program. Candidates pursuing this program will also be affected. The specific number of candidates pursuing the certificate for director of special education is unknown, but it would be a small, limited cohort due to the advanced level of the certification and the relatively few positions available for this certificate - most districts only have 1 director of special education.
(4) Provide an assessment of how the above group or groups will be impacted by whether the implementation of this administrative regulation, if new, or by the change if it is an amendment: The 6 teacher education institutions offering this certificate will amend their preparation programs to reflect the new eligibility, preparation, and completion requirements; the alignment of the programs has already begun under the efforts of the Commonwealth Collaborative for School Leadership Preparation formed by the 6 colleges/universities. Candidates for this certificate will have greater flexibility to transfer credits between universities (because the programs will be aligned) and they can pursue this advanced administrative certificate earlier in their preparation (because the entry administrative certificate for principal as been placed at the master's level instead of at the postmaster's, Rank I level).
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No additional agency funds allocated or necessary for implementation of regulation. The 6 colleges/universities will be reallocating their funds accordingly to reflect the programmatic changes necessary to align the education administration certificates.
(b) On a continuing basis: No additional agency funds allocated or necessary for continuing implementation of regulation. Following the initial reallocation for program alignment, the universities should not experience any need for long-term additional funding to implement the
regulation.
(6) What is the source of the funding to be used for the imple-
mentation 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 regula-
tion, 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? No. All preparation programs and
applicants for the professional certificate for director of special educa-
tion must meet the same standards and requirements respectively.

EDUCATION PROFESSIONAL STANDARDS BOARD

(Amendment)

704 KAR 20:410. Certification for supervisor of instruction,
grades K-12.

RELATES TO: KRS 161.020, 161.028, 161.030
STATUTORY AUTHORITY: KRS 161.028, 161.030
NECESSITY, FUNCTION, AND CONFORMANCE: KRS 161.020
requires that teachers and other professional school personnel hold
certificates of legal qualifications for their respective positions to be
issued upon completion of programs of preparation prescribed by the
Education Professional Standards Board. Additionally, teacher educa-
tion institutions are required to be approved for offering the preparation
programs corresponding to particular certificates on the basis of stan-
dards and procedures established by the Education Professional
Standards Board. This administrative regulation establishes the prepa-
ratation and certification program for supervisor of instruction at all grade
levels [grades K-12].

Section 1. (1) The professional certificate for instructional leader-
ship - supervisor of instruction, [grades K-12,] shall be issued in ac-
cordance with the pertinent Kentucky statutes and administrative
regulations of the Education Professional Standards Board to an
applicant who has completed the approved program of preparation which
corresponds to the certificate at a teacher education institution ap-
proved under the standards and procedures included in 704 KAR
20:686 [704 KAR 20:655; the Kentucky Standards for the Preparation-
Certification of Professional School Personnel].
(2) The professional certificate for instructional leadership -
supervisor of instruction, grades K-12, shall be valid for the position
of supervisor of instruction for grades K-12 unless otherwise delimited.
(9) As prerequisites for the Level I program of preparation for the initial
professional certificate for instructional leadership - supervisor of
instruction, [grades K-12] the candidate shall:
(a) Have been admitted to a [the] preparation program approved
by the Education Professional Standards Board [on the basis of crite-
ria developed by the teacher education institution] pursuant to 704
KAR 20:686 [704 KAR 20:655];
(b) Have completed three (3) years of full-time teaching expe-
rience;
(c) Have completed the master's degree; and
(d) Qualify for a Kentucky teaching certificate; a certificate issued
for speech and communication disorders shall not satisfy this prereq-
quisite.
(3) Application for the professional certificate for instructional
leadership - supervisor of instruction shall be made on Form TC-1.
(4) The initial professional certificate for instructional leadership -
supervisor of instruction, [grades K-12,] shall be issued for a duration
period of five (5) years upon the successful completion of a Level I
program approved by the Education Professional Standards Board
pursuant to 704 KAR 20:686, and shall be renewed subsequently for
five (5) year periods. The first renewal shall require the completion of a
[the twelve (12) semester-hour graduate curriculum identified as the]
Level II program approved by the Education Professional Standards
Board pursuant to 704 KAR 20:686 [in the curriculum standards].
Each five (5) year renewal thereafter shall require the completion of
two (2) years of experience as a supervisor of instruction, or three (3)
semester hours of additional graduate credit or the equivalent related
to the position of supervisor of instruction, or forty-two (42) hours of
approved training selected from programs approved for the Kentucky
Effective Instructional Leadership Training Program.
(5) If a lapse in certification occurs for lack of completion of the
Level II preparation, the certificate may be reissued for a five (5) year
period upon successful completion of the Level II preparation, but for
lack of the renewal requirements, the certificate may be reissued after
the completion of an additional six (6) semester hours of graduate
study or the equivalent appropriate to the program.
Section 2. Graduate level credit earned in the Level I and Level II
preparation programs identified in Section 1 of this administrative
regulation shall be eligible for consideration of Rank 1 classification
pursuant to 704 KAR 20:015, "Plan I" or "Plan II". [(1) A certificate
based upon Level II preparation as an early elementary school prin-
cipal; grades K-4; shall qualify the holder as a supervisor of instruction;
grades K-4. The supervision certification shall be valid also for any
other sequential combination of the grades K through eight (8) that
includes any grade K-4.]
(2) A certificate based upon Level II preparation as a middle grade
school principal; grades 5-8; shall qualify the holder as a supervisor of instruction; grades 5-8. The supervision certification shall be valid also for any other sequential combination of the grades K through eight (8) that includes any grade 5-8;
(3) A certificate based upon Level II preparation as a secondary
school principal; grades 9-12; shall qualify the holder as a supervisor of instruction; grades 9-12. The supervision certification shall be valid also for any other sequential combination of the grades 5-12 that in-
cludes any grade 9-12.]

Section 3. A preparation program for the professional certificate
for instructional leadership - supervisor of instruction, shall be consis-
tent with the six (6) standards included in "Intersate School Leaders
Licenses Consortium Standards for School Leaders" found in 704
KAR 20:710(2) and incorporated by reference.

Section 4. Incorporation by Reference, (1)(a) "Intersate School
Leaders Licenses Consortium Standards for School Leaders" is in-
corporated by reference.
(b) "Form TC-1, rev. 11/89" 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: August 15, 2000
FILED WITH LRC: August 15, 2000 at noon
PUBLIC HEARING: A public hearing on this administrative regu-
lation will be held September 21, 2000, at 1 p.m. in the Council on
Postsecondary Education Conference Room A, 1024 Capital Center
Drive, Frankfort, Kentucky. Individuals interested in being heard at this
hearing shall notify this agency in writing by September 14, 2000, five
work days prior to hearing, of their intent to attend. If no notification to
attend the hearing is received by that date, the hearing may be can-
celled. This hearing is open to the public. Any person who wishes to be
heard will be given an opportunity to comment on the proposed ad-
ministrative regulation. If you do not wish to be heard at the public
hearing, you may submit written comments on the proposed adminis-
tative regulation. Send written notification of intent to be heard at the
public hearing or written comments on the proposed administrative
regulation to the contact person.
Contact Person: Dr. Susan Leib, Education Professional Stan-
dards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601,
(502) 573-4656, FAX: (502) 573-1610.

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 es-
establishes the requirements for issuance of the professional certificate for supervisor of instruction.

(b) The necessity of this administrative regulation: This regulation establishes candidate eligibility requirements, preparation program standards, and application procedures for the professional certificate for supervisor of instruction.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028 requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.020 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Promulgation of this administrative regulation, as amended, will delineate the standards for preparation programs for this certificate and the process by which candidates may obtain and maintain certification as a supervisor of instruction.

(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 administrative regulation reflects changes in the preparation and certification of supervisors of instruction. The amendment adopts the Interstate School Leaders Licensure Consortium (ISLLC) Standards as the basis for the preparation curriculum; eliminates emphasis on "seat time" - i.e., a specified number of hours that must be completed; stresses performance-based assessment; and aligns this certification program in accord with other education administration programs and the new master's level principal certification (which allows preparation for other administrative certificates, such as supervisor of instruction, to begin at an earlier level).

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation governing the preparation and certification of supervisors of instruction will allow for the effective and efficient operation of these preparation programs and reflect the current standards and requirements expected for certification. The alignment of the education administration programs will allow teacher administrators pursuing these programs greater flexibility in completing the programs.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.028 requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.020 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board. The amendment alters the preparation and certification requirements by setting new eligibility, preparation, and completion standards.

(d) How the amendment will assist in the effective administration of the statutes: Promulgation of this administrative regulation will delineate the preparation and certification requirements for receiving the certification for supervisor of instruction.


RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY: FUNCTION, AND CONFOMITY: KRS 161.020 requires that a teacher and other professional school personnel hold a certificate of legal qualification for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. KRS 161.028(1)(b) 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. This administrative regulation establishes the preparation and certification program for school superintendent.

Section 1. Conditions and Prerequisites. (1) The professional certificate for instructional leadership - school superintendent shall be issued to an applicant who has completed:

(a) An approved program of preparation, as required by this administrative regulation and pursuant to 704 KAR 20:696; and

(b) The appropriate requirements for certification, as established in 704 KAR Chapter 20; and

(c) At least two (2) years of experience in a position of school principal, supervisor of instruction, guidance counselor, director, or assistant administrator, or director of pupil personnel or special education, school business administrator, assistant district administrative officer, principal or assistant principal, or director of districtwide services. Other administrative experience may be substituted for this requirement with the approval of the Education Professional Standards Board.

(2) The professional certificate for instructional leadership - school superintendent shall be valid for the position of school superintendent and assistant superintendent.

(3) Prerequisites for the program of preparation for the professional certificate for instructional leadership - school superintendent, shall include:

(a) Qualifications for a Kentucky teaching certificate;
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

(b) Admission to the preparation program on the basis of criteria developed by the teacher education institution pursuant to 704 KAR 20:696;

(c) Completion of a master's degree;

(d) Except as provided in subparagraph 2 of this paragraph, completion of the Levels I and II preparation and certification for the position of school principal, or supervisor of instruction; or

2. For a candidate who completed preparation for principal prior to 1988, completion of the assessments for administration; and

(e) Completion of at least five (5) years of experience as follows:

- three (3) years of full-time teaching experience, including at least 140 days per year; and

- at least two (2) years of additional experience in a position of school principal, supervisor of instruction, guidance counselor, director of pupil personnel, director of special education, school business administrator, local district coordinator of vocational education, or a coordinator, administrator, or supervisor of district wide services. Other administrative experience may be substituted for this requirement with the approval of the Education Professional Standards Board.

Section 2. A preparation program for the professional certificate for instructional leadership - school superintendent shall be consistent with the six (6) standards included in "Interstate School Leaders Licensure Consortium Standards for School Leaders" found in 704 KAR 20:710(2) and incorporated by reference. [Kentucky Administrator Standards for Preparation and Certification. The approved program of preparation for the certification of school superintendent shall prepare a candidate for the position of superintendent as specified in the following Administrator Standards:

   (1) Administrator Standard I: The administrator is the instructional leader who guides, facilitates, and supports the curriculum, instruction, and assessment;

   (2) Administrator Standard II: The administrator practices positive, promotional, and proactive communication strategies (oral and written) for effective parent, community, and school involvement to improve the learning environment for all students; and

   (3) Administrator Standard III: The administrator is the organizational leader and manager who acts with legal and ethical guidelines to accomplish educational purposes.

Section 3. Issuance and Renewal. (1) The initial professional certificate for instructional leadership - school superintendent shall be issued for five (5) years to a candidate who has completed an approved program of preparation for superintendent at the postmaster's level. Application shall be made on Form TC-1.

(2) Each five (5) year renewal shall require:

   (a) The completion of two (2) years of experience as a school superintendent or assistant superintendent;

   (b) Three (3) semester hours of additional graduate credit or the equivalent related to the position of school superintendent; or

   (c) Forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(3) If a lapse in certification occurs for lack of the renewal requirements, the certificate shall be reissued for a five (5) year period after the completion of an additional six (6) semester hours of graduate study or the equivalent appropriate to the program.

Section 4. Implementation Dates. (1) The provisions for the issuance of the certification for school superintendent shall apply to a candidate admitted to a program of preparation for school superintendent beginning September 1, 1998.

(2) A candidate admitted prior to September 1, 1998, to an approved program of preparation for school superintendent shall complete the program by September 1, 2000.

(3) A candidate who fails to complete an approved preparation program for school superintendent identified in Section 3 by September 1, 2000, and who does not apply for certification by May 1, 2001, shall be required to qualify for the new certificate identified in this administrative regulation.

(4) Colleges and universities shall take adequate steps to inform a candidate in these programs regarding the implementation dates established in this section.

Section 5. Incorporation by Reference. (1)(a) "Interstate School Leaders Licensure Consortium Standards for School Leaders" is incorporated by reference.

(b) "Form TC-1, rev. 11/99" 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: August 15, 2000

FILED WITH LRC: August 15, 2000 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held September 21, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 14, 2000, five work days prior to hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX: (502) 573-1810.

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 requirements for issuance of the professional certificate for instructional leadership - school superintendent.

(b) The necessity of this administrative regulation: This regulation establishes candidate eligibility requirements, preparation program standards, and application procedures for the professional certificate for instructional leadership - school superintendent.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 611.028 requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.020 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Promulgation of this administrative regulation, as amended, will delineate the standards for preparation programs for this certificate and the process by which candidates may obtain and maintain certification as a school superintendent.

(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 administrative regulation reflects changes in the preparation and certification of school superintendents. The amendment adopts the Interstate School Leaders Licensure Consortium standards for the new master's degree principal certification (which allows preparation for other administrative certificates, such as supervisor of instruction, to begin at an earlier level).

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation governing the preparation and certification of school superintendents will allow for the effective and efficient operation of these preparation programs and reflect the current standards and requirements expected for certification.
tion. The alignment of the education administration programs will allow teachers/administrators pursuing these programs greater flexibility in completing the programs.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.028 requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.020 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board. The amendment alters the preparation and certification requirements by setting new eligibility, preparation, and completion standards.

(d) How the amendment will assist in the effective administration of the statute: The amendment to this administrative regulation will delineate the preparation and certification requirements by redefining the certification for school superintendent.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The education administration programs at Kentucky colleges and universities will amend their preparation programs for school superintendent to reflect the new standards set forth in the administrative regulation; 7 colleges/universities in Kentucky offer this program. Candidates pursuing this program will be affected. The specific number of candidates pursuing the certificate for school superintendent is unknown, but it would be a small, limited cohort due to the advanced level of the certification and the relatively few positions available for this certificate.

(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The seven teacher education institutions offering this certificate will amend their preparation programs to reflect the new eligibility, preparation, and completion requirements; the alignment of the programs has already begun under the efforts of the Commonwealth Collaborative for School Leadership Preparation formed by the seven colleges/universities. Candidates for this certificate will have greater flexibility to transfer credits between universities (because the programs will be aligned) and they can pursue the advanced administrative certificate earlier in their preparation experience (because the entry administrative certificate for principal has been placed at the Master's level instead of at the postmaster's, Rank I level).

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: No additional agency funds allocated or necessary for implementation of regulation. The seven colleges/universities will be reallocating their funds accordingly to reflect the programmatic changes necessary to align the education administration certificates.

(b) On a continuing basis: No additional agency funds allocated or necessary for continuing implementation of regulation. Following the initial re allocation for program alignment, the universities should not experience any need for long term additional funding to implement the 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? (Explain why tiering was or was not used) NO. All preparation programs and applicants for the professional certificate for school superintendent must meet the same standards and requirements respectively.

704 KAR 20:540. Professional certificate for directors of pupil personnel and assistants.

RELATES TO: KRS 199.080; 161.020; 161.028; 161.030; HB 927 (1996 GA)

STATUTORY AUTHORITY: KRS 161.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the preparation and certification for director [administrator] of pupil personnel services, and establishes the requirements for a probationary certificate when a person holding certificate for director [administrator] of pupil personnel services is not available, and provides for repeal of 704 KAR 20-100.

Section 1. Definition. "Qualified applicant" means an applicant who holds the appropriate certificate as a director of pupil personnel services unless the superintendent of the employing school district has documented evidence that the applicant is unsuitable for appointment.

Section 2. (1) The professional certificate for director [Administrator] of pupil personnel services shall be issued in accordance with the pertinent Kentucky statutes and this administrative regulation 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) As prerequisites for the Level I program of preparation for the initial professional certificate for director [Administrator] of pupil personnel services, the candidate shall include:

(a) Have been admitted to a [Admission to the] preparation program approved by the Education Professional Standards Board pursuant to 704 KAR 20:696 on the basis of criteria developed by the teacher education institution. Program admission criteria shall include formal recommendations, grade point average, scores on standardized tests, and consideration by an admissions review committee;

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the [A] master's degree [as required by 704 KAR 20:620]; and

(d) Qualify for a Kentucky teaching certificate.

(3) Application for the professional certificate for director of pupil personnel services shall be made on Form TC-1.

(4) The initial professional certificate for director [Administrator] of pupil personnel services shall be issued for a duration period of five (5) years upon the successful completion of a Level I program approved by the Education Professional Standards Board pursuant to 704 KAR 20:696 and shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of a Level II program approved by the Education Professional Standards Board pursuant to 704 KAR 20:696. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a director [administrator] of pupil personnel services, or three (3) semester hours of additional graduate credit or the equivalent related to the position of director [administrator] of pupil personnel services, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Leadership Training Program provided in KRS 155.101.

(5) If a lapse in certification occurs for lack of completion of the Level II preparation, the certificate may be reissued for a five (5) year period upon successful completion of the Level II preparation, but for the lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study or the equivalent appropriate to the program.
Section 3. Graduate level credit earned in the Level I and Level II preparation program identified in Section 2 of this administrative regulation shall be eligible for consideration of Rank I classification pursuant to 704 KAR 20:015, "Plan IV or Plan III."

Section 2. The approved program of preparation for the professional certificate for administrator of pupil personnel services shall consist of a fifteen (15) semester hour graduate program designed to prepare an administrator of pupil personnel services in the following performance standards:

(1) Performance Standard I: Leadership. The administrator of pupil personnel services guides, facilitates, and supports the removal of barriers to the instructional program;

(2) Performance Standard II: Legal. The administrator of pupil personnel services applies legal concepts, practices, administrative regulations, and receives compliance issues for school operation;

(3) Performance Standard III: Pupil Accounting. The administrator of pupil personnel services compiles with pupil accounting procedures prescribed by state and administrative regulations; and

(4) Performance Standard IV: Networking and Related Support Services. The administrator of pupil personnel services identifies and utilizes appropriate school support programs, community agencies, and available resources.

Section 4. (3)(1) If a qualified applicant [person-holding-certification] for director [administrator] of pupil personnel services is not available as required by the local school superintendent, the superintendent, on behalf of the local board of education, may request a one-year probationary certificate for a director [an administrator] of pupil personnel services who meets the following qualifications:

(a) A valid Kentucky classroom teaching certificate;

(b) A master's degree [as required by 704 KAR 20:021];

(c) Three (3) years of successful teaching experience; and

(d) Admission to the preparation program for the professional certificate for director [administrator] of Pupil Personnel services.

(2) Application for the one (1) year probationary certificate for a director of pupil personnel services shall be made on Form TC-40.

(3) Each annual renewal of the probationary certificate for director [administrator] of pupil personnel services shall require completion of an additional nine (9) semester hours selected from the approved program.

Section 5. A preparation program for the certificate for director of pupil personnel services shall be consistent with the six (6) standards included in "Interstate School Leaders Licensure Consortium Standards for School Leaders" found in 704 KAR 20:710(2) and incorporated by reference.


(b) "Form TC-1, rev. 11/99" is incorporated by reference.

(c) "Form TC-40, rev. 08/00" 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: August 15, 2000
FILED WITH LRC: August 15, 2000 at noon
PUBLIC HEARING: A public hearing on this administrative regulation will be held September 21, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 14, 2000, five work days prior to hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiedermohl

(1) Provide a brief statement of:

(a) What this administrative regulation does: This regulation establishes the requirements for issuance of the professional certificate for director of pupil personnel services.

(b) The necessity of this administrative regulation: This regulation establishes candidate eligibility requirements, preparation program standards, and application procedures for the professional certificate for director of pupil personnel services.

(c) How this administrative regulation conforms to the content of the following statutes: KRS 131.020 requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.010 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Promulgation of this administrative regulation, as amended, will delineate the standards for preparation programs for this certificate and the process by which candidates may obtain and maintain certification as a director of pupil personnel services.

(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 material in this administrative regulation reflects changes in the preparation and certification of directors of pupil personnel. The amendment adopts the Interstate School Leaders Licensure Consortium (ISLLC) Standards as the basis for the preparation curricula; eliminates the emphasis on "seat time" - i.e., a specified number of hours that must be completed; stresses performance-based assessment; and aligns this certification program in accord with other education administration programs and the new master's level principal certification (which allows preparation for other administrative certifications, such as supervisor of instruction, to begin at an earlier level).

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation governing the preparation and certification of directors of pupil personnel will allow for the effective and efficient operation of these preparation programs and reflect the current standards and requirements expected for certification. The alignment of the education administration programs will allow teachers/administrators pursuing these programs greater flexibility in completing the programs.

(c) How the amendment conforms to the content of the following statutes: KRS 161.020 requires the EPSB to establish the standards for obtaining and maintaining a certificate. KRS 161.010 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board. The amendment alters the preparation and certification requirements by setting new eligibility, preparation, and completion standards.

(d) How the amendment will assist in the effective administration of the statutes: Promulgation of this administrative regulation will delineate the preparation and certification requirements for receiving the certificate for director of pupil personnel. (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The education administration programs at Kentucky colleges and universities will amend their preparation programs for director of pupil personnel to reflect the new standards set forth in the administrative regulation; 4 public universities in Kentucky offer this program. Candidates pursuing this program will also be affected. The specific number of candidates pursuing the certificate for director of
pupil personnel is unknown, but it would be a small, limited cohort due to the advanced level of the certification and the relatively few positions available for this certificate - most districts only have 1 director of pupil personnel.

(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. The 4 teacher education institutions offering this certificate will amend their preparation programs to reflect the new eligibility, preparation, and completion requirements; the alignment of the programs has already begun under the efforts of the Commonwealth Collaborative for School Leadership Preparation formed by the four universities. Candidates for this certification will have greater flexibility to transfer credits between universities (because the programs will be aligned) and they can pursue this advanced administrative certificate earlier in their preparation (because the entry administrative certificate for principal as been placed at the master's level instead of at the postmaster's, Rank I level).

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No additional agency funds allocated or necessary for implementation of regulation. The 4 universities will be realocating their funds accordingly to reflect the programmatic changes necessary to align the education administration certificate.

(b) On a continuing basis: No additional agency funds allocated or necessary for continuing implementation of regulation. Following the initial reallocation for program alignment, the universities should not experience any need for long term additional funding to implement the 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? No. All preparation programs and applicants for the professional certificate for director of pupil personnel must meet the same standards and requirements respectively.

EDUCATION PROFESSIONAL STANDARDS BOARD
(Amendment)

704 KAR 20:710. Professional certificate for instructional leadership - school principal, all grades.

RELATES TO: KRS 161.020, 161.027, 161.028, 161.030
STATUTORY AUTHORITY: KRS 161.027, 161.028, 161.030
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 requires that a teacher or other professional school personnel hold a certificate of legal qualification for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. Additionally, KRS 161.027 specifically requires a preparation program for principals. A teacher education institution shall be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the preparation and certification program for school principals, at all grade levels.

Section 1. Conditions and Prerequisites. (1) The provisional and professional certificate for instructional leadership - school principal shall be issued to an applicant who has completed an approved program of preparation and requirements, including assessments.

(2) The provisional and professional certificate for instructional leadership - school principal shall be valid for the position of school principal or school assistant principal for all grade levels.

(3) Prerequisites for admission to the program of preparation for the provisional and professional certificate for instructional leadership - school principal shall include:

(a) Qualification for a Kentucky classroom teaching certificate;
(b) A 2.5 grade point average on a 4.0 scale on all collegiate preparation;
(c) Successful completion of a generic test of communication skills, general knowledge, and professional education concepts approved by the Education Professional Standards Board as a condition for the issuance of a Kentucky classroom teaching certificate or other test authorized for this purpose by the appropriate state agency recognized by the Education Professional Standards Board through contract with Interstate Agreement on Qualification of Educational Personnel;
and
(d) Successful completion of the Kentucky Teacher Internship Program, as provided in 704 KAR 20:590 [704 KAR 20:045], or two (2) years of successful teaching experience outside the state of Kentucky.

Section 2. Kentucky Administrator Standards for Preparation and Certification. The approved program of preparation for the provisional certificate for instructional leadership - school principal shall include a master's degree in education and shall be designed to address recommendations of relevant professional organizations including the National Policy Board for Educational Administration, the University Council for Educational Administration, the National Council of Professors of Educational Administration, the National Association of Secondary School Principals, and the American Association of School Administrators and to prepare a candidate for the position of School Principal as specified in the standards included in "Interstate School Leaders Licensure Consortium Standards for School Leaders" that is incorporated by reference and adopted by the Education Professional Standards Board. The standards are as follows:

(1) School leader standard 1. A school administrator is an instructional leader who promotes the success of all students by facilitating the development, articulation implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(2) School leader standard 2. A school administrator is an educational leader who promotes the success of all students by advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

(3) School leader standard 3. A school administrator is an educational leader who promotes the success of all students by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(4) School leader standard 4. A school administrator is an educational leader who promotes the success of all students by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(5) School leader standard 5. A school administrator is an educational leader who promotes the success of all students by acting with integrity, fairness, and in an ethical manner; and

(6) School leader standard 6. A school administrator is an educational leader who promotes the success of all students by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

Section 3. Assessment Prerequisites for the Provisional Certificate for Instructional Leadership - School Principal. (1) An applicant for certification as a school principal, including vocational principal, shall attain the specified minimum score on each of the following assessments prior to receiving the provisional certificate, except as provided by KRS 161.027(6):

(a) Kentucky Specialty Test of Instructional and Administrative Practices, with a score of eighty-five (85) percent correct responses; and

(b) The written test of applied knowledge approved by the Education Professional Standards Board.

(2) For an applicant applying for a certificate under KRS 161.027(5)(b), the school superintendent of the employing district shall submit a request that shall include an affirmation that the applicant pool consisted of three (3) or less applicants who met the requirements for selecting a principal.

Section 4. Statement of Eligibility for Internship. (1) A statement of eligibility for internship for the provisional certificate for instructional
leadership - school principal shall be issued for a five (5) year period to an applicant who:

(a) [4] Has successfully completed an approved program of preparation;
(b) [6] Has three (3) years of full-time teaching experience; and
(c) [9] Has successfully completed the appropriate assessment requirements for the school principal certification or qualifies for a one (1) year period of completion of assessments under KRS 161.027(5).

(2) Application shall be made on Form TC-1.

Section 5. (1) A professional certificate for instructional leadership - school principal, level I, shall be issued upon successful completion of the principal internship as provided in KRS 161.027 and 704 KAR 20:470.

(2) The renewal of the professional certificate for instructional leadership - school principal, level I, shall require a recommendation from the approved recommending authority regarding the successful completion of an approved level II program. The certificate shall be valid for five (5) years.

(3) In addition to the requirements of KRS 161.027(9), each subsequent five (5) year renewal of the professional certificate for instructional leadership - school principal, level II, shall require:

(a) Successful completion of two (2) years of experience as a school principal within the preceding five (5) years; or

(b) If the applicant has not successfully completed the two (2) years of experience, completion of three (3) semester hours of additional graduate credit directly related to the position of school principal for each required year of experience the applicant has not completed; or

(c) Successful completion of forty-two (42) hours of approved training selected from programs approved by the Kentucky Effective Instructional Leadership Training Program provided in KRS 156.101.

Section 6. Implementation Dates. (1) The provisions for the issuance of the provisional and professional certificate for instructional leadership - school principal, levels I and II, shall apply to a student admitted to a program of preparation beginning September 1, 1998.

(2) A candidate admitted prior to September 1, 1998, to an approved preparation program for school principal under 704 KAR 20:380, 704 KAR 20:390, or 704 KAR 20:400 shall complete the program by September 1, 2000.

(a) A candidate formally admitted to an approved preparation program for school principal under 704 KAR 20:380, 704 KAR 20:390, or 704 KAR 20:400 by September 1, 1997, shall be eligible for the instructional leadership-school principal, all grades certificate upon:

1. Completion of the program in which the candidate is enrolled as identified in this subsection;

2. The successful completion of an approved additional three (3) to six (6) graduate semester hours. The additional graduate semester hours shall be designed to address content of the preparation program not addressed in 704 KAR 20:380, 704 KAR 20:390, or 704 KAR 20:400;

3. A recommendation from the institution of higher education for the appropriate certificate; and

4. Successful completion of the required assessment in effect at the time of application for the certificate.

(b) A candidate who holds a valid Kentucky principal certificate shall be eligible for the instructional leadership-school principal, all grades certificate upon:

1. Enrollment in an approved program of preparation that shall:
   a. Be designed to address leadership at all grade levels;
   b. Include school-based experiences; and
   c. Not require more than three (3) to six (6) additional hours of graduate credit; and

2. A recommendation from the institution of higher education for the appropriate certificate.

(3) A candidate who fails to complete the approved program and appropriate assessments specified in subsection (2) of this section by September 1, 2000, or does not apply for certification by May 1, 2001, shall be required to qualify for the certificate identified in this administrative regulation.

(4) A college or university shall take adequate steps to inform a candidate in these programs regarding the implementation dates identified in this section.


(b) "Form TC-1, rev. 11/99" is incorporated by reference.

(2) This material may be inspected at the Education Professional Standards Board [Division of Testing and Internship, Office of Teacher Education and Certification, Kentucky Department, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or obtained from either the Division of Testing and Internship or the Council of Chief State School Officers, Attn: Publications, One Massachusetts Avenue, NW, Suite 700, Washington, DC 20001-1431.

JOE EARLY, Chair
APPROVED BY AGENCY: August 15, 2000
FILED WITH LRC: August 15, 2000 at noon
PUBLIC HEARING: A public hearing on this administrative regulation will be held September 21, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 14, 2000, five work days prior to hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiedermohl

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the requirements for issuance of the professional certificate for instructional leadership - school principal.

(b) The necessity of this administrative regulation: This regulation establishes candidate eligibility requirements, preparation program standards, and application procedures for the professional certificate for instructional leadership - school principal.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.027 and 161.028 require the EPSSB to establish the standards for obtaining and maintaining principal certification. KRS 161.020 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Promulgation of this administrative regulation, as amended, will delineate the standards for preparation programs for this certificate and the process by which candidates may obtain and maintain certification as a school principal.

(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 administrative regulation reflects changes in the preparation and certification of school principals. The amendment adopts a new renewal option for the certificate and makes technical changes. Application material has been incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation governing the preparation and certification of school principals reflect the current standards and requirements expected for certification and certificate
renewal. The new renewal option allows principals greater flexibility in maintaining their certificates.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.027 and 161.028 require the EPSB to establish the standards for obtaining and maintaining principal certification. KRS 161.027 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board. The amendment alters the certification requirements by setting a new renewal option.

(d) How the amendment will assist in the effective administration of the statute: Promotion of this administrative regulation will delineate the preparation and certification requirements for obtaining and maintaining the certification for school principal.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Professional school personnel holding the certification for school principal will be affected. Kentucky has several thousand principal certificate holders.

(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: Educators holding the certificate for school principal will have greater flexibility in renewing their certificates.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No additional agency funds allocated or necessary for implementation of regulation.
(b) On a continuing basis: No additional agency 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? No. All preparation programs and applicants for the professional certificate for school principal must meet the same standards and requirements respectively.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of Special Instructional Services
(Amendment)

705 KAR 4:041. Cooperative program standards.

RELATES TO: KRS 151B.025, 156.029
STATUTORY AUTHORITY: KRS 156.029, 156.070
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.025 relates with the Kentucky [State] Board of [for Elementary and Secondary] Education the authority to prescribe program standards for area vocational and technology education centers. This administrative regulation establishes program standards for cooperative vocational education in area vocational and technology education centers and local school districts.

Section 1. Cooperative vocational education shall meet the following minimum requirements:
(1) Enrollees shall be at least sixteen (16) years of age and if below eighteen (18) they shall secure a verification of age issued by the local superintendent of schools. Students from eighteen (18) to twenty-one (21) years of age shall have a certificate of age on file with the employer.

(2) A student [Enrollees] shall have successfully completed the basic vocational skills [course] prerequisites required by the prepara-

tory [occupational] program he is [they are] pursuing and gained sufficient knowledge and skills necessary for success in a cooperative education program, as identified in the Program of Studies for Kentucky Schools, 704 KAR 3:303.

(3) A student [in cooperative education] shall be enrolled in a related preparatory educational subject within the school year [class under the direction of the teacher-coordinator] the student shall receive minimum classroom instruction equivalent to five (5) hours per week.

(4) The cooperative education program shall be an integral part of the school's program of studies and be described in the school catalog.

(5) A [The] student may receive academic [course] credit on an hour-for-hour basis equivalent to a Carnegie Unit only for work experience directly related to the student's individual graduation plan [educational program] and approved under the Program of Studies for Kentucky Schools, 704 KAR 3:303.

(6) A [The] student shall receive a salary for the work experience phase of instruction [be paid] in accordance with local, state, and federal minimum wage requirements.

(7) The school shall arrange and coordinate with the employer for on-the-job training and [66] a training agreement by the [plan between school, student, parent, and [the] employer shall be placed on file with the school [for each student].

(8) A student shall be permitted to be excused from school attendance only for the purpose of participating in an approved cooperative education program activity.

(9) The program shall include an evaluation component to assess the effectiveness of the program in assisting students in the achievement of their educational and career goals.

(10) The student shall spend a minimum of ten (10) clock hours per week in a salaried position which provides work experience directly related to the student's career goals as identified in his individual graduation plan.

(11) The school shall provide work site supervision of the student by a certified teacher-coordinator on a regular basis throughout the period of time a student is participating in the cooperative education program.

(12) The teacher-coordinator shall receive at least one (1) class period during the regular school day for supervision of students. Additional periods for supervision may be justified based on the enrollment of the program.

Section 2. Cooperative teacher-coordinators shall meet the following requirements:
(a) Hold a teaching certificate designated for a teacher in an occupational program area in which the teacher-coordinator is coordinating cooperative vocational education experiences.

(b) Have a minimum of two (2) years teaching experience in an occupational program area. Exceptions shall include:
(a) Agricultural, marketing education, and special vocational education teachers shall not be required to have prior teaching experience.

(b) Teacher-coordinators of industrial cooperative programs who are graduates of an approved associate degree or bachelor's degree program may be certified without prior teaching experience.

(c) Home economics teacher-coordinators shall meet certification requirements for insufficient home economics teachers.

(d) Teachers of cooperative work experience programs of special vocational programs shall have 2000 hours of paid work experience with the work experience to be approved by the chief state school officer, and meet the certification requirements of the specific occupational program area.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 10, 2000
FILED WITH LRC: August 14, 2000 at 1 p.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 22, 2000, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five
working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: Kevin Noland, Office of Legal Services, Department of Education, 500 Market Street, First Flor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland

(1) Provide a brief summary of:
(a) What this administrative regulation does: Provides standards for cooperative education programs operated in local school districts and area vocational centers.
(b) The necessity of this administrative regulation: To clarify the purpose and standards for conducting cooperative education programs for high school students.
(c) How this administrative regulation conforms to the content of the authorizing statute: The Kentucky Board of Education is responsible for establishing policies affecting secondary education pursuant to KRS 151B.025, 156.029 and 156.070.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment provides local school district state policies on conducting cooperative education programs.

(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: Provides standards for cooperative education programs operated in local school districts and area vocational centers. Adds clarity to existing regulation regarding the purpose of cooperative education programs.
(b) The necessity of the amendment to this administrative regulation: To clarify the purpose and standards for conducting cooperative education programs for high school students.
(c) How the amendment conforms to the content of the authorizing statute: The Kentucky Board of Education is responsible for establishing policies affecting secondary education, pursuant to KRS 151B.025, 156.029, and 156.070.
(d) How the amendment will assist in the effective administration of the statutes: This amendment provides local school district state policies on conducting cooperative education programs.

(4) An analysis 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 amendment will require schools to review and revise local policies on conducting cooperative education programs.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no additional costs.
(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: General funds and federal funds are used to support the implementation of cooperative education programs.
(d) 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 fees are required for this regulation.
(e) Determine whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are required for this regulation.
(f) TIERING: Is tiering applied? Tiering was not applicable as this regulation applies equally to all school districts.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of Special Instructional Services (Amendment)


RELATES TO: KRS 151B.025, 156.029, PL 105-332 [20-U SG 2991-2471]-[29-U SG 2991-2471]

STATUTORY AUTHORITY: KRS 156.029, 156.070, PL 105-332


Section 1. (1) Secondary career and technical [vocational] education programs shall be designed to serve students enrolled in the following middle school and secondary program areas:

(a) Agricultural education;
(b) Business education;
(c) Health sciences; and personal services;
(d) Family and consumer sciences; [home economics;]
(e) Industrial [f] technology education;
(f) Marketing education;
(g) Technology education; and
(h) Pathway to careers, [-special vocational programs; career exploration, and special applied academic area for vocational students-]

(2) Instructional programs shall not discriminate on the basis of race, color, national origin, age, religion, marital status, sex, or disability, in violation of state or federal statutes.

Section 2. Instruction shall be designed to:

(1) Assist students [individuals in the process of] preparing for school to work transition in recognized occupations and new or emerging occupations including high technology industries; [-]
(2) Prepare students [individuals] for advanced or highly skilled postsecondary [vocational and] technical education programs, including Tech Prep, or entrance into community and technical colleges or universities; [college.]
(3) Prepare individuals for gainful employment in recognized occupations and in new or emerging occupations;
(4) Assist individuals in obtaining computer literacy skills; and
(5) Provide career guidance and academic counseling in the development of the individual graduation plan as established in 704 KAR 3:305.

Section 3. The content of the instruction in secondary career and technical education [vocational] programs shall:

(1) Be aligned with state or national occupational skill standards that have been recognized by business and industry to include an understanding of all aspects of an industry; [based on the skills, attitudes, and knowledge required to achieve the objectives of the instruction and include a planned sequence of courses or experiences necessary for the individual to achieve the objectives;]
(2) Be developed and conducted in consultation with employers and other individuals having skills and knowledge of the [occupation or the] occupational fields or industry included in the instruction;
(3) Be developed to include a coherent sequence of academic...
and career/technical courses for each program, aligned with career clusters and majors; [include the most up-to-date knowledge and skills necessary for competencies required to meet the objectives of such instruction; and]

(4) Be sufficiently extensive in duration and intensive within a scheduled unit of time to enable students to achieve the objectives of the instruction;

(5) Be structured to provide for the integration of rigorous academic content relevant to the career area and aligned with the academic expectations, 703 KAR 4:060; and

(9) Be linked to postsecondary education in order to provide a smooth and seamless transition to postsecondary education in related technical fields. If possible, articulation of credit from secondary to postsecondary education shall be provided for students.

Section 4. (1) A student completing the requirements for a career major may receive a Career Major Certificate [of Secondary Vocational Education Completion of Occupation Program]. Requirements for a Career Major Certificate shall include:

(a) Successful completion of high school graduation requirements to include four (4) career-related credits relevant to a career cluster or major;

(b) Participation in a structured work-based learning experience related to the career cluster or major; and

(c) A culminating project related to the career cluster or major.

(2) A student may earn the Department of Education Career and Technical Certificate of Achievement by:

(a) Earning four (4) credits within a career major; or

(b) Enrolling in a specific occupational area (in high school programs or vocational/technical schools) and successfully obtaining the competencies identified for a major (DOT) Dictionary of Occupational Title.

Section 5. A secondary career and technical education program shall provide opportunities for students to participate in high quality work-based learning experiences related to the program in which they are enrolled. These work-based learning experiences may include:

(1) Job shadowing;

(2) Mentoring;

(3) Internships;

(4) School-based enterprises;

(5) Entrepreneurship;

(6) Clinicals;

(7) Cooperative education;

(8) Service learning;

(9) Apprenticeship; or

(10) Work experience.

Section 6. A [Section 5.] secondary career and technical education program [vocational programs] shall be designed to accommodate students with special learning needs, i.e., the disadvantaged, the disabled and individuals with limited English proficiency. [Special program shall conform to the requirements outlined in the Program of Studies for Kentucky Schools: 704 KAR 3:930.]

Section 7. A [Section 6] secondary career and technical [vocational] education program [programs] shall provide a variety of learning experiences. Programs in grades six (6) through eight (8) shall be designed to allow students to become aware of and explore clusters of occupations. Programs in grades nine (9) through twelve (12) shall provide in-depth exploration, specialized skill development and preparation [or prepare individuals] for advanced education. Students enrolled in public or private schools shall be permitted to enroll in a state-operated career and technical [vocational] program consistent with that school district's enrollment quota.

Section 8. A career and technical [7.-Vocational] preparation program [programs] shall provide a curriculum of sufficient length to permit students to secure entry level skills in the occupation for which they are training. [The curriculum shall conform to the requirements in the Program of Studies for Kentucky Schools: 704 KAR 3:930.]

Section 9. Career and technical [6.] Recognized career and technical [vocational] student organizations shall be an integral part of a career and technical education [the instructional program [provided]] and shall be supervised by qualified career and technical [vocational] education personnel. All students shall be provided an opportunity to participate in leadership development activities.

Section 10. [9:] Instructional and administrative personnel shall meet the [teacher] certification requirements as specified by the Education Professional Standards Board in 704 KAR Chapter 20.

Section 11. Opportunities in secondary career and technical education programs shall be provided for students to receive an industry-recognized skill standard certificate based on skill standards and assessments.

Section 12. A [14:] Each [vocational] career and technical education program area shall have an active program advisory committee comprised of business and industry representatives, parents, education representatives, and, if applicable to the program area, labor organizations representatives to assist in planning, implementing, and evaluating programs.

Section 13. [16:] Requests for exceptions to any standards for career and technical [vocational] instructional programs shall be submitted in writing by the local educational agency to the chief state school officer. [Exceptions shall be limited to experimental programs; innovative programs; and unusual cases and shall be approved on an individual and annual basis.]

Section 14. [19:] (1) The maximum number of students per class shall be based on the class setting. For a classroom setting, the maximum enrollment shall be thirty-one (31); for a laboratory or shop setting, the maximum enrollment shall be twenty-seven (27); the number of students enrolled in a class shall not exceed the number of work stations available in the facility. [For a supervised off-campus setting, the maximum enrollment shall be twenty-seven (27). Approval by the chief state school officer is required for justification of exceptions; and such shall be granted only for good cause shown.]

(2) A [There shall be at least one (1) class period for supervision of cooperative vocational education work experience program. Additional periods for supervision may be justified based on the number of students enrolled in the program. Each participating student shall have a training agreement and training plan between school, student, and employer.]

(3) [Each] program shall provide classrooms, laboratories, and other facilities including instructional equipment, supplies, teaching aids, and other materials in sufficient quantity and quality to meet the objectives of the instructional programs. [Vocational instruction] Equipment used in career and technical [vocational] education programs shall be similar to that used in business and industry. An inventory of all equipment with an original purchase price of $500 [968] or more shall be maintained by the local school district or area technology center. The facilities for each program shall be of adequate size to accommodate the activities and the number of work stations unique to the program. The facility shall be approved by the chief state school officer.

Section 15. (1) A career and technical education [14]Each vocational education program shall meet the performance indicators [be evaluated annually] in accordance with the requirements of the Carl Perkins Vocational-Technical [and Applied Technology] Education Act of 1998 (PL 105-332), which include:

(a) State established academic and vocational technical skill achievement;

(b) Attainment of a secondary diploma;

(c) Placement in postsecondary education or employment;

(d) Nontraditional training and employment; and

(e) Issuance of a Career Major Certificate or Career and Technical
Certificate of Achievement to students, [Core Standards and Measures, 20 USG 2301 to 2471; the Department of Technical Education, the local education agency, and the Kentucky Department of Education].

(2) The performance indicators [evaluation] shall be used to determine the effectiveness of the program in terms of its objectives and shall include annual follow-up data as well as annual enrollment reports.

(3) An audit of the utilization of federal and state funds shall be conducted by the Kentucky Department of Education [Division of Secondary-Vocational Education] or Department of Technical Education to assure that eligible recipients meet the requirements for each approved career and technical [vocational] education program.

Section 16. Federal funds to be received by a local school district under the Carl D. Perkins Vocational and Technical Education Act of 1998, PL 105-332, may be withheld for noncompliance with this administrative regulation or with the Carl D. Perkins Vocational Technical Education Act of 1998.

[Section 15- Programs offered by any eligible recipient of federal funds shall be disapproved for the federal funds if program requirements and provisions of the Kentucky State Plan for Vocational Technical Education are not met]

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 10, 2000
FILED WITH LRC: August 14, 2000 at 1 p.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 22, 2000, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: Kevin Noland, Office of Legal Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601. phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation begins with a name change for Vocational Education to Career and Technical Education. The regulation is intended to provide standards for secondary career and technical education that are necessary for improving high school vocational education. The standards are focused on increasing student academic and technical achievement and ensuring that students make successful transition to postsecondary education and careers.

(b) The necessity of this administrative regulation: The name change is needed to more adequately reflect a national trend and to clarify the purpose of occupational education at the secondary level. The standards included in this regulation are necessary to improve the achievement of students enrolled in vocational education in order to meet the accountability requirements of the new federal Carl D. Perkins Vocational Technical Education Act.

(c) How this administrative regulation conforms to the content of the authorizing statute: The Kentucky Board of Education is responsible for establishing policies affecting secondary education, pursuant to KRS 151B.025, 156.029, and 156.070.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes standards for secondary vocational education programs. It provides school districts and area technology centers guidance in planning and conducting career and technical education programs.

(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 change the name of vocational education to career and technical education. It also provides more focused standards for all vocational education programs.

(b) The necessity of the amendment to this administrative regulation: The name change is needed to more adequately reflect a national trend and to clarify the purpose of occupational education at the secondary level. The standards included in this regulation are necessary to improve the achievement of students enrolled in vocational education in order to meet the accountability requirements of the new federal Carl D. Perkins Vocational Technical Education Act.

(c) How the amendment conforms to the content of the authorizing statute: The Kentucky Board of Education is responsible for establishing policies affecting secondary education, pursuant to KRS 151B.025, 156.029, and 156.070.

(d) How the amendment will assist in the effective administration of the statutes: This regulation establishes standards for secondary vocational education programs. It provides school districts and area technology centers guidance in planning and conducting career and technical education programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 176 local school districts, 52 state-operated area technology centers, 200,000 students enrolled in vocational programs in middle schools, high schools, and vocational centers.

(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 that it is an amendment: This regulation will provide the groups identified above with a set of standards which reflect the expectations of career and technical education to meet the goals and accountability of the new Perkins Act.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No additional funds are needed.

(b) On a continuing basis: No additional funds are needed.

(c) How is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

(6) General funds allocated for vocational education and federal Vocational Education funds received from the Carl D. Perkins Act.

(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: None

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are necessary for this regulation.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation applies equally to school districts.

CABINET FOR HEALTH SERVICES
Department for Mental Health/Mental Retardation Services
Division of Mental Health
(Amendment)


RELATES TO: KRS Chapter 13B, 2002A.011(12)(d), 202A.400, 209.030, 222.005, 309.130 to 309.139, Chapters 311, 319, 335.080, 335.100, 335.300 to 335.399, 335.500 to 335.599, 403.715 to 403.785, 421.570, Chapters 506, 507 to 510, 511.020 to 511.040, 512.020, Chapter 515, 517.050, 529.020 to 532.050, 530.020, 530.060, 530.065, 530.070, 531.030, 531.040, 531.900 to 531.370, 620.030

STATUTORY AUTHORITY: KRS 194A.030, 403.750
NECESSITY, FUNCTION, AND CONFORMITY: KRS 403.7505 authorizes the Cabinet for Health Services to promulgate administra-
tive regulations establishing certification standards for mental health professionals providing court-ordered treatment services for domestic violence offenders. The purpose of this administrative regulation is to establish provider certification requirements and standards for services. This administrative regulation is necessary to assure the quality of court-ordered services and reduce the danger of physical injury or death for victims of inappropriately treated domestic violence perpetrators.

Section 1. Definitions. (1) "Appellant" means an applicant or a provider who requests an informal resolution meeting in accordance with Section 13 of this administrative regulation or an administrative hearing in accordance with Section 14 of this administrative regulation.

(2) "Application" means the Application for Certification as a Provider for Court-Ordered Domestic Violence Offender Treatment and includes required attachments.

(3) "Assessment" means the evaluation of the offender's characteristics, history of abusive behavior, risk of harm to self and others, and capacity to benefit from treatment.

(4) [(6)] "Associate provider" means an individual that has been certified by the cabinet to provide services in accordance with the requirements of this administrative regulation only under the direct supervision of an autonomous provider.

(5) [(8)] "Autonomous provider" means a mental health professional who has been licensed or certified pursuant to KRS Chapters 309, 311, 314, 319, or 335 that has been certified by the cabinet in accordance with Section 2(1)(b) of this administrative regulation for unsupervised clinical practice in a domestic violence program.

(6) [(4)] "Bureau" means the Bureau for Health Services or its designee.

(7) [(5)] "Client" means an offender who is subjected to a criminal offense related to domestic violence or who is a respondent in a protective order issued by a court pursuant to KRS 495, and who has been admitted to a program.

(8) "Court" means a district, family, or circuit court of the Commonwealth of Kentucky.

(9) "Court-ordered" means subject to an order entered by a court pursuant to KRS 495 or any court in the Commonwealth of Kentucky.

(10) "Department" means the Department for Mental Health and Mental Retardation Services or its designee.

(11) [(7)] "Domestic violence" is defined in KRS 403.720(1).

(12) [(6)] "Defendant" means an individual who has been charged with or convicted of a criminal offense related to domestic violence or who is a respondent in a protective order issued by a court pursuant to KRS Chapter 403.

(13) [(9)] "Program" means the services provided in accordance with the requirements of this administrative regulation to offenders who have been referred by a court for assessment or treatment related to domestic violence.

(14) [(10)] "Provider" means an associate provider or an autonomous provider.

(15) "Sanction" means taking compulsory or restrictive action including:

(a) Prohibition, requirement, limitation, or another condition affecting the freedom of a person;

(b) Withholding of relief;

(c) Imposition of a penalty or a fine;

(d) Destruction, taking, seizure, or withholding of property;

(e) Assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(f) Revocation, or suspension of a license.

(16) [(11)] "Screening" means the action taken by a provider (associates or autonomous providers) to determine an offender’s eligibility for admission to the program.

(17) [(12)] "Treatment" means individual and group counseling and education which is based on a core curriculum that focuses on cessation of domestic violence counseling and educational services that focus on the cessation of violence by an offender. Treatment includes individual and group services using a comprehensive curriculums of content relating to domestic violence.

(18) "Victim advocate" is defined in KRS 421.570.

Section 2. Certification Procedures. (1) If an applicant is not subject to denial or revocation pursuant to Section 3 of this administrative regulation, the cabinet shall certify him an individual as:

(a) An associate provider if the applicant meets the qualifications specified in Section 4(1) of this administrative regulation or

(b) An autonomous provider if the applicant meets the qualifications specified in Section 4(2) of this administrative regulation.

(2) An individual may apply to be certified as an associate provider or an autonomous provider by submitting a complete application to the Sexual and Domestic Violence Program Administrators, Department for Mental Health and Mental Retardation Services, Division of Mental Health: |

(a) A written request for certification to the cabinet;

(b) Documentary evidence of qualifications;

(c) A copy of the curriculum to be used in the program; and

(d) Evidence that the individual has remedied the cause for the denial or revocation if a certification has been denied or revoked in accordance with Section 3 of this administrative regulation.

(3) [(10)] "Request for certification shall be submitted to the Sexual and Domestic Violence Program Specialist, Department for Mental Health and Mental Retardation Services, Division of Mental Health.

(4) [(9)] "The cabinet shall notify an applicant in writing if certification is granted or denied no later than sixty (60) days after receiving an application or after receiving additional documentation if the department retains the application in accordance with Section 2(2) of this administrative regulation. The notice shall:

(a) Specify the effective date of certification, if applicable;

(b) Specify the basis of the denial of the application, if applicable;

(c) Specify additional documentation that is required if the department retains the application in accordance with Section 2(2) of this administrative regulation and

(d) Inform the applicant of the right to appeal the denial in accordance with the informal resolution process established in Section 13 of this administrative regulation, and the administrative hearing process established in Section 14 of this administrative regulation. (determine that the request is incomplete if:

(e) The documentation of qualifications is insufficient to meet the applicable qualifications; or

(f) The cabinet can not verify the authenticity of the documentation of qualifications.

(5) If the cabinet determines that a request is incomplete it shall return the request to the sender and specify additional documentation that is required or the documentation that can not be verified.

(6) The cabinet shall respond to the request for certification in writing no later than sixty (60) working days after receiving a complete request for certification.

(7) [(7)] Certification shall be effective for two (2) years.

(8) [(5)] "The cabinet shall renew the certification of an associate provider or an autonomous provider upon request if the provider submits verifiable documentation of completion of at least eight (8) hours per year of continuing education related to domestic violence unless this certification has been revoked in accordance with Section 3 of this administrative regulation.

(9) The cabinet may solicit recommendations from individuals outside the cabinet regarding the certification of providers.

(10) The cabinet may form a committee of individuals with expertise in domestic violence to provide recommendations to the cabinet on the certification of providers.

Section 3. Denial or Revocation of Certification. (1) The cabinet shall deny certification to a provider if it determines that:

(a) The application is incomplete;

(b) The documentation of qualifications is insufficient to demonstrate that the applicant meets the applicable requirements in Section 4 of this administrative regulation;

(c) The department cannot verify the authenticity of the documentation of qualifications submitted in the application or

(d) The core curriculum submitted fails to meet the requirements specified in Section 10(7) of this administrative regulation.

(2) The department may retain the application and permit the
applicant to submit additional documentation in accordance with a
notice provided pursuant to Section 2(3)(c) of this administrative
regulation if the department denies certification in accordance with
subsection (1)(a) of this section.
(3) The cabinet shall deny certification to an applicant and shall
revoke the certification of a provider upon its determination [The cab-
inet may deny a request for certification or revoke the certification of
a provider if the cabinet determines] that the applicant or provider:
(a) Has been convicted of or plead guilty to;
1. Criminal homicide pursuant to KRS Chapter 507;
2. Assault or a related offense pursuant to KRS Chapter 508;
3. Kidnapping or a related offense pursuant to KRS Chapter 509;
4. A sexual offense pursuant to KRS Chapter 510;
5. Burglary or a related offense pursuant to KRS 511.020 through
511.040;
6. Criminal damage to property pursuant to KRS 512.020;
7. Robbery pursuant to KRS Chapter 515;
8. Falsifying business records as defined in KRS 517.050 if the
conviction was in relation to the applicant's clinical practice;
9. Incest as defined in KRS 530.020;
10. Endangering the welfare of a minor as defined in KRS
530.060;
11. Unlawful transaction with a minor as defined in KRS 530.064,
530.065, or 530.070;
12. Sexual exploitation of a minor pursuant to KRS 531.300 to
531.370;
13. Criminal attempt as defined in KRS 506.010, to commit an
offense identified in this paragraph;
14. Distribution of obscene materials involving a minor pursuant to
KRS 531.030 or 531.040; or
15. Promoting prostitution pursuant to KRS 529.030, 529.040 or
529.050, [a felony offense or a misdemeanor offense if the crime
negatively impacts the delivery of services to clients];
(b) Has had a domestic violence protective order issued against
him within the [previous five (5)] years prior to the date of the applica-
tion or after being certified;
(c) Has had an alcohol or other drug abuse problem as defined in
KRS 222.005 within the two (2) years prior to the date of the applica-
tion or engages in alcohol or drug abuse as defined in KRS 222.005
after being certified;
(d) Is subject to a current court order restraining or enjoining him
from providing a service pursuant to his licensure or certification or
(e) Has engaged in prostitution pursuant to KRS 529.020 within
the five (5) years prior to the date of the application or after being
certified;
(f) Depending on the severity or recency of the infractions the
department may deny an application or revoke the certification of a
provider who:
(a) Has had a sanction applied against or a revocation of a pro-
fessional license or certification held by the applicant or provider, at
any time in the two (2) years prior to the date of the application or any
line after being certified;
(b) Has a history of conviction against or certification or
(c) Has provided domestic violence offender assessment or
treatment services in violation of Section 5(1) or (2) of this adminis-
trative regulation;
(d) Has had a sanction applied against or a license or certification
held by the applicant or provider any time in the past three (3) years
or currently has a sanction against all license or certification;
(e) Has provided domestic violence offender assessment or
services without supervision if supervision is required by
Section 5(1) or (2) of this administrative regulation;
(f) Has failed any information in a request for certification;
(g) Has failed to meet the requirements for maintenance of certifi-
cation established as set forth in Section 2(b) [66] of this adminis-
trative regulation;
(h) Has failed to implement a corrective action plan [imposed
by the cabinet] in accordance with Section 12(2)(d) or (b) of this ad-
mministrative regulation;
(i) Has failed to follow the curriculum submitted in the application
or submitted and approved in accordance with Section 10(9) of this
administrative regulation;
(ii) Has submitted a curriculum and amended a previously-approved
curriculum in a manner which is inconsistent with any provision of this
administrative regulation or with generally accepted program stan-
ards for domestic violence treatment; or
(iii) Has failed to meet a requirement established in Sections 2
through 11 (i) has practiced in a manner which is inconsistent with or
in violation of a provision of this administrative regulation; or
(b) Has provided information that the cabinet:
1. Is unable to verify; or
2. Has determined to be incorrect;
(f) The department shall notify a provider in writing if his certifica-
tion is revoked. The notice shall:
(a) Specify the effective date that his certification shall be revoked;
(b) Specify the basis of the determination to revoke a certification;
and
(c) Inform the provider of the right to appeal the revocation in ac-
cordance with the informal resolution process established in Section
13 of this administrative regulation and the administrative hearing
process established in Section 14 of this administrative regulation.
(6) A provider whose certification is revoked shall be ineligible for
certification until the second anniversary of the effective date of the
revocation except as provided in subsection (7) of this section.
(7) The department shall renew the certification of a provider
whose certification has been revoked in accordance with subsection
4(d) of this section upon the department's receipt of documentation
that the provider has met the requirement of Section 5(5) of this ad-
mnistrative regulation.
[2(2) An applicant or a provider may appeal a denial of a request for
certification or a revocation of certification. An appeal shall:
(a) Be submitted in writing to the Sexual and Domestic Violence
Program Specialist, Department for Mental Health and Mental Retar-
dation Services Division of Mental Health; and
(b) Specify the reason the provider believes the denial or revoca-
tion is unwarranted; and
(c) May include information or documentation supporting the
applicant's position.
(3) If an applicant or a provider appeals a certification decision the
cabinet shall appoint a hearing officer and conduct an administrative
hearing in accordance with KRS Chapter 103B.
(4) An applicant or provider who has had his certification revoked
shall be ineligible for certification or recertification until the second
anniversary of the date his certificate was revoked.
]

Section 4. Qualifications of Certified Providers. (1) The qualifica-
tions of an associate provider shall be:
(a) A bachelor's degree from an accredited university or college [in
a mental health related discipline];
(b) Completion of twenty-four (24) clock hours of specialty training
in domestic violence including:
1. Characteristics and dynamics of domestic violence;
2. Clinical profiling of domestic violence offenders;
3. Risk assessment and lethality of domestic violence offenders;
4. Treatment of offenders;
5. Effective services for victims and child witnesses of domestic
violence;
6. Safety planning for victims; and
7. Criminal sanctions for domestic violence and legal remedies for
victims;
(c) Four (4) years of full-time postbachelors degree work experi-
ence totaling at least 8000 hours that shall include general clinical
experience or direct case experience related to domestic violence;
(d) Being a party to: A written agreement to receive the supervi-
sion, which shall include:
1. Case discussion;
2. Review of reading assignments;
3. Skill building; and
4. Review of an audio or video recording of assessment and
treatment performed by the associate provider; [required by Section
5(2) of this administrative regulation] and
(e) Written recommendations for certification from two (2) victim
advocates [as defined in KRS Chapter 421], at least one (1) of whom
works in an agency separate from the applicant.
(2) The qualifications of an autonomous provider shall be:

- 869 -
(a) At least a master's [an-advanced] degree from an accredited university or college [in a mental-health discipline that is regulated by license or certification under the statutes of the Commonwealth of Kentucky];

(b) Possession of a certificate or license to practice under the laws of the Commonwealth of Kentucky in one (1) of the following disciplines:

1. Psychology in accordance with KRS Chapter 319;
2. Social work in accordance with KRS 335.080 or 335.100;
3. Medicine in accordance with KRS Chapter 311 if board eligible in psychiatry and neurology;
4. Psychiatric nursing in accordance with KRS 202A.011(12)(d);
5. Marriage and family therapy in accordance with KRS 335.300 to 335.399;
6. Professional counseling in accordance with KRS 335.560 to 335.699; or
7. Art therapy in accordance with KRS 306.130 to 306.139; [and]
(c) 150 hours of clinical experience providing domestic violence services under the direct supervision of a professional who is licensed or certified in accordance with [one of the licensed or certified professionals specified in paragraph (b) of this subsection of which eighty (80) percent of the time shall have been with offenders and twenty (20) percent with victims; [and]
(d) Completion of the training specified in subsection (1)(b) of this section;
(a) A written recommendation for certification from the professional that provided the supervision required by paragraph (c) of this subsection; and
(f) Written recommendations for certification from two (2) victim advocates [as defined in KRS Chapter 414], at least one (1) of whom works in an agency separate from the applicant.

Section 5. Scope of Practice and Supervision Requirements. (1) An associate provider may, under the supervision of an autonomous provider [an associate provider]:

(a) Screen, assess, plan and provide treatment [services under the supervision of an autonomous provider to offenders and clients of a program];
(b) Consult with a court, prosecutor, law enforcement official, the courts, prosecutors, law enforcement, other agencies, mental health providers [providers] and others regarding the assessment and treatment of a client [or treatment needs of clients]; or
(c) Contact a victim of a client [Have contact with the victim of an offender who are clients of the program] in accordance with Section 7 of this administrative regulation,

(2) An associate provider who provides a service in accordance with [that provides the services specified in subsection (1)] of this section shall participate in at least one (1) hour per week of face-to-face supervision pursuant to the written agreement established in Section 4(1)(d) of this administrative regulation [including:
(e) Case discussion;
(b) Review of reading assignments;
(c) Skill building; and
(d) Review of audio or video tapes of actual clinical practice provided by the associate provider]

(3) A certified autonomous provider may provide screening, assessment, treatment and consultation [services] independently and supervise an associate provider [providers] if he has:

(a) Participated in a three (3) hour training program in clinical supervision that has been approved by a professional [mental health] licensing board specified in Section 4(2)(b) of this administrative regulation, or by the cabinet; and
(b) Been in the practice of domestic violence offender treatment for a period of at least one (1) year.

(4) A certified autonomous provider who supervises an associate provider [associate provider]:

(a) Provide the supervision required by subsection (2) of this section; and
(b) [Directly observe the supervisor's practice in person or through video or audio tapes of the supervisor's clinical practice; and
(e) Assure that an associate provider performs a service in accordance with Sections 4, 5(1), 7, 8, 9, 10, and 11 [supervisors provide services in accordance with the provisions of this administrative regulation.

(5) A supervisor shall not supervise more than six (6) associate providers concurrently.

Section 6. General Service Standards. (1) A court-ordered service shall be based on the following premises [Services provided to offenders referred by a court for domestic violence services shall be based on the following premises regarding violent conduct, the roles of offenders, and the effects of domestic violence on victims]:

(a) Domestic violence constitutes a health hazard to a victim [victims] who may experience short and long-term effects from the abuse. Immediate and long-term cessation of the domestic violence is the priority purpose for treatment.
(b) Domestic violence in any form [its various forms] is criminal behavior.

(c) Treatment [Services] shall be designed to enhance and promote the safety of a victim [victims] including a spouse, a live-in partner, a child or other family member [identified and identifiable victims including spouses, live-in partners, children, and other family members];
(d) A victim is [Victims are not responsible for the violent behavior of an offender and a provider [offenders and services] shall not promote the concept of mutual responsibility in explaining domestic violence;
(e) The offender is accountable for domestic violence, which is the product of individual choices and learned traits. The offender's psychology, substance abuse, other disorder [disorders], or cultural background is not the explanatory cause of domestic violence [are not explanatory causes of the offense] but can influence the offender's behavior.
(f) Cooperation and service coordination between the criminal justice system [law enforcement, the courts, probation and parole agencies, the Department for Community-Based Services, a victim's advocate, a spouse abuse center, and a spouse abuse centers and other victim advocates]; chemical dependency or mental health professionals may be required [professional and other mental health professionals is necessary] to assure effective treatment and the safety of a victim or a potential victim [victims and potential victims].

(2) A provider shall give each offender and [or] client a written document that explains the complaint process of the program.

(3) A provider shall treat an offender and a client [offenders] with respect and dignity at all times and shall not discriminate against an offender based on race, ethnicity, gender, age, disability, or socioeconomic status.

(4) An offender and a client shall have the right to complain verbally or in writing to the provider, the referring court, or the cabinet. A provider shall not take adverse action against an offender or a client who [that] makes a complaint.

(5) [A] A provider shall adjust fees based upon the client's ability to pay. The court has made a finding that a client is indigent prior to making a referral for treatment; a court may order a client to perform community service in lieu of payment of a fee.

(6) A provider shall comply with a federal and a state law [federal laws pertaining to research with a human subject] human subjects] and shall protect the privacy of a client who gives consent to participate in any provider sponsored research activities.

(a) [7(7)] The provider shall provide a clean and comfortable facility which shall be accessible to the handicapped and meet the applicable fire safety codes [facilities for client services that meet applicable fire safety codes and handicapped accessibility codes].
(b) [7(6)] The provider shall comply with all federal and state laws applicable to the confidentiality of a client record [records].

The provider shall establish an individual record for each offender who receives a court-ordered service which contains documentation of each service provided to the offender and demonstrates that the services meet the requirements of Sections 6 through 11 of this administrative regulation.

Section 7. Contact with a Victim [Victims]. (1) If an offender consents to a victim's participation in his assessment or treatment [services] a provider shall:

(a) Attempt to contact the victim within five (5) days of the offender's admission to the program;
(b) Offer the victim an opportunity to participate in the assessment or treatment of the offender by disclosing information about the of-
fender and the circumstances of the domestic violence;
(c) Interview a victim who consents [victims who consent] to participate in an assessment or treatment of the offender;
(d) Provide the victim information about the program, its possible benefits, the limitations of treatment [services], and the degree to which the offender’s participation may or may not result in increased safety for the victim; and
(e) Educate the victim about community support [services], which is [are] available to assist in meeting a need for current or future protection [needs] of the victim or a family member [and family members].
(2) A provider [Providers] shall document an effort to contact victim [their efforts to contact victims].
(3) An interview of a victim [interviews] shall not be conducted in the presence of the offender.
(4) A provider shall not attempt to coerce or persuade the victim to participate if a victim does not consent to participate, withdraws consent to participate, or refuses to participate or provide information about an offender or a client [a provider shall not attempt to coerce or persuade the victim to participate].

Section 8. Screening Procedures. (1) A provider shall establish:
(a) Eligibility criteria for participation in a program which:
1. Shall include a requirement that an offender sign an authorization to disclose to a victim if he is not admitted to or discharged from the program;
2. May include an offender’s admission of responsibility for a domestic violence related offense; and
3. May not be based solely on an offender’s inability to pay for services;
(b) A procedure to accept a referral [Procedures for acceptance of referrals of offenders] from a court following a charge [charges] of a domestic violence related offense or as a condition of a protective order issued pursuant to KRS Chapter 403; and
(c) A procedure [Procedures] for notifying the referring court, if an offender is ineligible for the program [determined not to be eligible for a provider’s services]. The notice shall:
1. Specify the reason an [reasons the] offender is determined to be ineligible in accordance with the eligibility criteria established by the provider pursuant to paragraph (a) of this subsection;
2. Specify each referral [The referrals] made in accordance with Section 9(3) and (4) [§§] of this administrative regulation, if any; [and]
3. Be made no later than five (5) days after the determination is made;
4. Make a recommendation for a service which is more likely to benefit the offender in the provider’s professional opinion; and
5. Include a recommendation that the court notify a victim pursuant to KRS 403.7505(3)(e) that the offender is ineligible for the program.
(2) A provider shall provide an offender [shall be provided] with the following information prior to the offender receiving an assessment or treatment services:
(a) The requirement for confidentiality of information and the limit [limitations] on confidentiality including:
1. The duty of a provider to warn and protect an intended victim of a threat of harm as required by KRS 202A.400 [duties of providers to warn and protect intended victims of threats of harm under the provisions of KRS 202A.400];
2. The requirement [requirements] to report abuse in accordance with KRS 209.030 and [§] 620.030; and
3. The fact that information disclosed to the provider or to another client [other clients] may be used against him [them] in a civil or criminal proceeding [proceedings];
(b) The requirement of a court order, a statute, or an administrative regulation which imposes a duty upon the provider to disclose information or make a report pertaining to the offender or client to:
1. A court;
2. A prosecutor;
3. A probation or parole officer;
4. A law enforcement agent;
5. The victim; or
6. Another person or organization that may be involved in the assessment of the offender or treatment of the client [The relationship of the provider to the referring court including duties to make reports pertaining to the client to the courts; prosecutors; probation and parole officers; law enforcement; the victim; and any other named party or agency that might be involved in the coordination of the client’s services].
(c) The information provided in accordance with paragraph (b) of this subsection, which shall include:
1. The name of the person if known, or the title of the agency or organization to whom information shall be disclosed or to whom a report shall be made;
2. The basis of the duty to disclose information or to make a report; and
3. The condition under which information shall be disclosed or a report made.
(d) The offender’s responsibility to pay for an assessment or treatment in accordance with KRS 403.7505(3)(g), the cost to the offender, and the provider’s policy regarding failure to pay; (for paying fees for services and policies regarding noncompliance with payment of fees);
(e) [cd] The expected length of treatment [participation] and the procedure [terms] for voluntary and involuntary discharge from the program [including grounds for involuntary discharge];
(f) [ef] An explanation of the provisions in [requirements of] Section 6 of this administrative regulation;
(g) [fh] A description of the assessment and treatment [services] that will be provided to the offender including the requirements for participation; and
(h) [gi] Notification that, at the discretion of the court, failure to comply with the program [requirements] may result in a citation for contempt of court; and
(i) [fhi] An explanation of the procedures for a victim to participate in the program in accordance with Sections 7 and 10(13) of this administrative regulation, [procedures for victim participation in screening, admission and treatment services].

Section 9. Assessment and Admission Procedures. (1) An assessment of the offender’s treatment needs shall be performed if an offender is determined to be eligible for domestic violence treatment services. An assessment shall be conducted in accordance with Section 8(1) of this administrative regulation. [If an offender is determined to be eligible for domestic violence services offered by the provider in accordance with Section 8(1) of this administrative regulation an assessment of the offender’s treatment needs shall be performed.] The assessment shall include consideration of the offender’s:
(a) History of abuse behavior including degree of harm and type of violent conduct;
(b) Criminal history;
(c) Risk of harm to self and others;
(d) Medical history;
(e) History of mental or emotional disorder;
(f) Current mental status;
(g) Presence of a Co-occurring disorders such as mental illness, or a substance abuse disorder [or dependence];
(h) Ability to benefit from the approved program curriculum [content and methods]; and
(i) Relevant public records, including a police report and other information about the offender [police reports and other available collateral sources of information on the offender].
(2) A provider may interview a victim in accordance with the provisions of Section 7 of this administrative regulation and consider information provided by a victim in the assessment if an offender consents for a victim to participate in an assessment.
(3) A provider shall refer an offender to a service which, in the professional opinion, is more likely to benefit the offender, if the provider determines, based on the assessment required by subsection (1) of this section, that the offender is unlikely to benefit from services offered by a provider. The provider may interview a victim in accordance with the provisions of Section 7 of this administrative regulation and consider information provided by a victim in the assessment if an offender consents for a victim to participate in an assessment.
(4) A provider may require an offender to participate in mental health or substance abuse treatment as a prerequisite for admission to or completion of the domestic violence program. [If an assessment or admission to the program:]
(a) A provider determines that the offender is unlikely to benefit from services due to a high-risk of lethality or other factors a provider shall refer the offender to services more likely to benefit the offender.
(b) A provider may refer an offender to mental health or substance services...
abuse treatment services as a prerequisite for admission or completion of a domestic-violence offender treatment program.

(5) A provider shall notify the referring court if the offender shall be admitted to a program or not, and a referral made, if any;

(a) No later than five (5) days after making the assessment required by subsection (1) of this section; and

(b) In determination that an assessment if the offender shall be admitted to a program or not, and a referral made, if any. The court shall not be notified within twenty-four (24) hours if the provider chooses not to admit an offender to a program based on the offender's lethality or another factor [other issues] related to the safety of the victim.

(6) An offender shall be admitted to a program if;

(a) He is eligible in accordance with the eligibility criteria established in accordance with Section 8(1)(a) of this administrative regulation;

(b) He signs a [for domestic-violence treatment upon providing] a written consent for treatment;

(c) He signs a [and agreeing in writing to comply with all program rules and guidelines and providing] written authorization for a provider to disclose [release] information to a party [the parties] identified in Section 8(2)(b) of this administrative regulation; and

(d) He signs a [agreed] written agreement to comply with the program requirements; and

(7) If the provider chooses not to admit an offender to the program due to the offender's inability to benefit from the program or the offender's reasonably foreseeable risk of harm to the victim or others, the provider shall notify the victim of the decision not to admit the offender. Providers shall document their efforts to contact victims.

Section 10. Treatment Procedures. (1) A provider shall make individual and group treatment services available to a client [clients] at least once weekly.

(2) A group treatment service provided to a female shall not include a male participant.

(3) A group treatment service shall include:

(a) No less than two (2) and no more than twelve (12) clients unless two (2) providers are present; and

(b) No more than fifteen (15) clients if two (2) providers are present. Program shall offer separate groups for male and female offenders.

(3) Group services may involve a minimum of two (2) clients but shall not exceed twelve (12) clients at any time unless two (2) providers facilitate each group session. If two (2) providers facilitate a group, it may include a total of fifteen (15) participants.

(4) A group treatment session shall require a client to attend for a duration of ninety (90) minutes or longer [services shall be scheduled in at least one and one-half (1 1/2) hour sessions].

(5) A client shall participate in the program for at least [for a minimum period of] twenty (20) weeks.

(6) A person who is not referred by a court [Noncourt-referred client] may participate in a group [services] with a court-referred client [clients].

(7) [The] provider shall establish and follow a core curriculum for group participation that includes [covers the essential features of domestic violence including]:

(a) The definition of domestic violence [its various forms, including physical, sexual, psychological and environmental abuse];

(b) Exploration of the effect [effects] of domestic violence on a victim and a witness to domestic violence [victims and witnesses to the domestic violence];

(c) Discussion of civil and criminal law related to domestic violence;

(d) Description of the cycle of violence and other dynamics of domestic violence;

(e) Instruction of a client about his [her] client [clients] about their responsibility for [the] domestic violence [behavior];

(f) Confrontation of the client's use of power, control and coercion in an intimate relationship [intimate relationships];

(g) Confrontation of a rigid sex role stereotype [stereotypes];

(h) Challenge of the client's pattern of aggression in a conflict with a victim [aggressive reactions in conflict situations with victims];

(i) Exploration of the actual and perceived role of alcohol and drug abuse in the domestic violence;

(j) Exploration of a constructive and nonviolent method [methods] for expressing anger and resolving conflict in a relationship [relationships], including the use of time-out [time-outs], stress management, anger reduction and constructive verbalization as a method [verbal methods] for resolving conflict;

(k) Development of a repressive prevention technique [techniques]; and

(l) Promotion of aftercare [services] where indicated.

(8) If group treatment is provided to a female client [clients] for female offenders are offered, the core curriculum required by subsection (7) of this section shall be implemented in a manner that relates to female gender specific issues [amended to relate specifically to female offenders].

(9) A provider may amend a core curriculum with the prior written approval of the department. The provider shall submit to the Sexual and Domestic Violence Program Administrator:

(a) A written request for approval of an amended core curriculum including an explanation of the purpose for the amendment; and

(b) The proposed amended core curriculum.

(10) The department shall notify the provider in writing if an amended curriculum submitted in accordance with subsection (9) of this section is approved or disapproved no later than thirty (30) days after the date that the department receives the request for approval. The notice shall:

(a) Specify the effective date of the approval if applicable;

(b) Specify the requirements of subsection (7) or (8) of this section that the amended curriculum does not meet if it is disapproved; and

(c) Inform the provider of his right to dispute a disapproval in accordance with Sections 11 and 12 of this administrative regulation.

(11) A provider shall perform his duty to warn a victim in accordance with the [KRS 202A.409] if an intended victim has been threatened by a client of the program.

(12) A provider shall notify a victim if a client has signed an authorization to disclose information to a victim in accordance with Section 8(2)(b) of this administrative regulation is discharged from the program.

(13) A provider shall document an effort to notify a victim.

(14) A provider shall execute all duties to warn and protect under the provisions of KRS 202A.409 if intended victims have been threatened by a client of the program.

(15) A provider shall notify the victim of the discharge or termination of a client from a program. If the discharge or termination is based on the offender's lethality or other issues related to the safety of the victim, the provider shall immediately make every reasonable attempt to contact the victim. Providers shall document their efforts to contact victims.

(16) A provider shall not offer or provide marital counseling or family therapy to a client or a victim unless [any client or victim until] the client;

(a) Has successfully completed the program; and

(b) Has not demonstrated violence in his relationship with a victim [the relationship] for at least six (6) months after [since the] successful completion of the program.

(17) A provider shall not provide marital counseling or family therapy to a client if the provider believes that the victim may agree [be agreeing] to participate because of coercion or threat from the client [offender].

Section 11. Involuntary Discharge from a Program. (1) A provider shall involuntarily discharge a client who [dismisses from the program an offender that]:

(a) Fails to attend more than ten (10) percent of scheduled appointments;

(b) Fails to actively participate in services or complete assignments;

(c) [Fails to assume financial responsibility for services as ordered by the court];

(d) Ignores or violates [any] provision of a court order; or

(e) After admission to the program, perpetrates [e] Reports a
reoccurrence of domestic violence or other behavior which [behaviors that], in the provider's professional judgment, is [are] associated with increased risk of harm to the victim.

(2) A provider may involuntarily discharge a client who fails to pay for assessment or treatment:

(a) As agreed; or

(b) As ordered by a court.

(3) A provider shall notify the referring court in writing upon his determination that a client shall be discharged in accordance with subsection (1) or (2) of this section. The notice shall:

(a) Specify the reason for the discharge;

(b) Be made no later than five (5) days after the determination; or

(c) No later than twenty-four (24) hours if the determination is made in accordance with subsection (1)(d) of this section. [A provider shall notify the referring court no later than five (5) days after a decision to discharge an offender from the program and shall specify the reason for the discharge. If the provider involuntarily discharges an offender due to the offender's inability to benefit from the program or due to a reasonably foreseeable risk of harm to the victim, the provider shall notify the court within twenty-four (24) hours after the decision to discharge the offender.]

(d) (f9) A provider shall immediately notify the victim in accordance with Section 10(12) of this administrative regulation if the discharge is pursuant to subsection 1(1)(d) of this section.

(5) The provider shall document an effort to notify a victim, [of the involuntary discharge of a client. A provider shall document an effort to contact a victim.]

Section 12. Monitoring. (1) The cabinet shall:

(a) Investigate a signed written complaint which alleges that a provider has failed to adhere to a requirement of this administrative regulation; and

(b) Refer an allegation that includes information which indicates that a provider has violated a requirement of a professional license or certification board to a board which has jurisdiction to regulate the provider.

(2) The cabinet may, on its own initiative:

(a) Interview an offender who consents to an interview;

(b) Interview a victim who consents to an interview;

(c) Review a record of an assessment or treatment service provided to an offender and a client; and

(d) Observe the performance of an assessment or treatment service unless an offender objects to being observed; and

(e) Interview an individual, including a judge, who interacts with a provider in relation to the program or who has knowledge about the provider's practice.

(3) The cabinet may determine that a program does or does not meet a requirement of this administrative regulation based on the information obtained in accordance with subsection 1(1) or (2) of this section. [Investigate signed written complaints received about providers; if the complaints allege a failure to comply with the provisions of this administrative regulation; and]

(b) Refer any complaints against providers which relate to unethical practice or practice which may be outside the practice of a provider to the appropriate licensure or certification board.

(2) The cabinet may evaluate a certified provider's adherence to the provisions of this administrative regulation on its own initiative.

(3) Interviewing by cabinet staff may include the following activities:

(a) Interviewing offenders or victims if they consent to be interviewed;

(b) Reviewing service records maintained by providers on offenders that have been referred by a court in accordance with this administrative regulation;

(c) Direct observation of services provided to offenders unless an offender objects to being observed;

(d) Interviewing judicial, correctional, or police officials, victim advocates, or other agency personnel that interact regularly with a certified provider in relation to offender services; and

(4) If the cabinet determines that a certified provider has failed to meet a requirement [comply with provisions] of this administrative regulation the cabinet shall notify the provider in writing of its determination and may:

(a) Require the provider to submit a corrective action plan; (b) Impose a corrective action plan upon the provider; or (c) Revoke a provider's certification in accordance with Section 3(2) or (4) of this administrative regulation.

(5) The cabinet shall notify an autonomous provider who [that] supervises an associate provider if it determines that the [an] associate provider has failed to meet a requirement specified in Section 5(b) of this administrative regulation and the autonomous provider shall be responsible to assure that corrective action is taken.

Section 13. Informal Resolution of Disputes Prior to Hearing. (1) An applicant or provider may request an informal resolution meeting if he wishes to appeal:

(a) The denial of an application;

(b) The revocation of certification;

(c) A determination made by the department in accordance with Section 12(3) of this administrative regulation; or

(d) A determination, which is specified in a notice, provided in accordance with Section 10(10)(b) of this administrative regulation.

(2) A request made in accordance with subsection (1) of this section shall:

(a) Identify the disputed determination or action;

(b) State the basis on which the department's action is believed to be unwarranted or erroneous;

(c) Summarize the appellant's position;

(d) Provide the name, address, and telephone number of each individual who is expected to attend an informal resolution meeting on the appellant's behalf if a meeting is held; and

(e) Include documentary evidence that the appellant wishes the department to consider in relation to the dispute.

(3) A request submitted in accordance with subsection (1) of this section, shall not be considered a request for an administrative hearing.

(4) The department shall, within thirty (30) days of receipt of a request made in accordance with subsection (1) of this section, notify the appellant in writing of the following:

(a) The time and place at which the informal resolution meeting shall be held;

(b) The name and title of the department's representative who is expected to attend the meeting;

(c) The provisions of subsections (3) and (9) of this section; and

(d) The provisions of Section 14(1) of this administrative regulation.

(5) The informal resolution meeting shall be scheduled for a date no later than sixty (60) days after receipt of a request submitted in accordance with subsection (1) of this section.

(6) Prior to an informal resolution meeting, the department may rescind the disputed action or determinations based on the contents of the request made in accordance with subsection (1) of this section.

(7) The department may cancel an informal resolution meeting if:

(a) It rescinds the disputed action or determination in accordance with subsection (6) of this section; and

(b) It informs the appellant of the decision to rescind the disputed determination or action at least three (3) business days prior to the scheduled date of the meeting; and

(c) The appellant agrees to cancellation of the meeting;

(d) The department shall document the actions taken in accordance with subsection (7) of this section.

(9) If an informal resolution meeting is held, the department shall notify the appellant in writing to meet within thirty (30) days after the meeting if it shall rescind, modify or enforce the disputed action, and the facts upon which its decision is based.

(10) An appellant may request an administrative hearing in accordance with Section 14(1) of this administrative regulation at any time during the informal resolution process established in this section.

Section 14. Administrative Hearing Process. (1) A written request for an administrative hearing shall be received by the department no later than thirty (30) calendar days after the date of notice of a determination or a resolution decision whichever is later. The request shall be sent to the Sexual and Domestic Violence Program Administrator, Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, 100 Fair Oaks Lane, 4th Floor, Frankfort,
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: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (FAX).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mike Littlefield

(1) Provide a brief summary of:

(a) What this administrative regulation does: This ordinary administrative regulation replaces the current emergency regulation. It clarifies and strengthens requirements for mental health practitioners to be certified by the department as qualified to provide specialized treatment to perpetrators of domestic violence who are mandated to obtain treatment by a court. It prescribes certification standards, specifies application procedures, establishes standards for services, and delineates department monitoring activities.

(b) The necessity of this administrative regulation: This regulation is needed to assure that perpetrators of domestic violence receive appropriate and effective services.

(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 403.7505 requires the cabinet to promulgate regulations establishing standards based on specified principles, to establish procedures for certification of providers, establish standards for admission and discharge of offenders, requirements for treatment contracts between providers and offenders, procedures for victim notification of discharge and payment protocols which require offenders to pay the cost of services. This administrative regulation addresses each of the statutory requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This administrative regulation specifies department monitoring activities, procedures for approval, denial and revocation of provider certification, and procedures for resolution of appeals related to department certification decisions. Those provisions will enable the department to assure the implementation of statutory requirements and to correct violations of statutory requirements. The establishment of program standards will enable the department to assure adequate specialization of services and a consistent level of quality across the state.

(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: Amendments made throughout this administrative regulation assure its conformity to the requirements of KRS Chapter 13A and thereby enhance the clarity of the requirements and the department's ability to enforce the requirements of the regulation. This amendment also clarifies and strengthens certification requirements by specifying that applicants for certification who have been convicted of specified criminal charges, or who have had sanctions applied against their licensure or certification are ineligible to be certified. Amendment of requirements for disclosure of information to victims will require that offenders who are ordered to undergo treatment by a court must sign an authorization to disclose information to a victim in accordance with KRS 403.7505.

(b) The necessity of the amendment to this administrative regulation: The requirements in the existing administrative regulation related to certification are insufficiently specific to enable the department to enforce the requirements and many of the requirements are not in compliance with KRS Chapter 13A provisions relating to clarity, language, and formatting.

(c) How the amendment conforms to the content of the authorizing statute: The amendment establishes clear requirements for victim notification in accordance with KRS 403.7505(3)(e). Language and formatting changes make the regulation conform to the requirements of KRS Chapter 13A. Amendment of requirements for certification approval, denial and revocation strengthen the requirements for certification. Amendment of department monitoring procedures enhance the department's ability to assure compliance with the regulation and conform to KRS 403.7505(5)(h) which authorizes the department to
establish provisions which further the availability and quality of court-mandated domestic violence offender services.

(d) How the amendment will assist in the effective administration of the statutes: The establishment of monitoring procedures and specification of dispute resolution procedures improve the department's ability to administer the certification process, to assess quality and to enforce requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 112 certified providers and 50 applicants for certification. The regulation will indirectly affect the 59 judicial districts in the state to the extent that the number and type of providers who are certified in each district may be affected by this amendment.

(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: Certified providers will be affected by amended department monitoring procedures, clarification of program standards, and amended certification requirements upon their request for renewal of certification. Currently certified providers are required to renew certification at 2 year intervals from the anniversary date of the initial certification. Applicants whose certification are currently pending approval may be affected by amendments to certification requirements depending on the timing of their applications and the approval of this amendment by the legislative committees. All the current providers and applicants will be affected by new dispute resolution procedures.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no cost to implement this amendment. Department staff already perform all the functions which will be required by the amendment. This amendment modifies existing procedures. There will be no cost to providers as a result of this amendment. There are no fees charged for certification and none of the amendments will generate new costs to providers.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Existing agency funds. This regulation will be administered by the department's Sexual and Domestic Violence Program Administrator.

(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 no need for an increase in funding or fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither directly nor indirectly establishes fees.

(9) TIERING: Is tiering applied? Tiering is applied to standards for certification. This administrative regulation establishes qualification requirements for associate providers who may provide assessment and treatment under supervision, and autonomous providers who may provide assessment and treatment without supervision, and supervise associate providers. Qualification requirements are tiered. Tiering is used to maximize accessibility of services by permitting certain providers to function under the supervision of more highly qualified and licensed providers.

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

(Amendment)

922 KAR 1:130. Kinship Care Program.


NECESSITY, FUNCTION, AND CONFORMITY: 2000 Ky. Acts ch. 306, sec. 1 requires the cabinet to establish a program for kinship care and to promulgate administrative regulations for the uniform con-

ditions and requirements regarding eligibility, financial assistance and payment rates, and support and case-management services for kinship care. [KRS 605-120(4) encourages the cabinet to develop a pilot kinship-care project] This administrative regulation establishes the Kinship Care Program in Kentucky.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Families and Children.

(2) "Child" means the same as a "child" pursuant to 921 KAR 2:006, Section 1(4).

(3) "Kentucky Transitional Assistance Program (K-TAP)" means Kentucky's Temporary Assistance for Needy Families (TANF) money payment program pursuant to 921 KAR 2:006, Section 1(8).

(4) "Kinship caregiver" means the qualified caretaker relative of the child with whom the child is placed as an alternative to foster care.

(5) "Overpayment" means, after an initial determination of eligibility, an erroneous benefit was received by the kinship caregiver and a determination of ineligibility for the program was made.

Section 2. Eligibility for the Kinship Care [Establishing the] Program. (1) The Kinship Care Program shall serve a child who is:

(a) Is, or otherwise would be, placed in foster care due to: 1. The death of both parents; or

2. A finding of substantiated abuse or neglect of the child, as determined by the:
   a. Cabinet pursuant to KRS 600.020(1); or
   b. State agency of the state that arranged the child's placement if:
      i. The child is placed from another state pursuant to an interstate agreement; and
      ii. Verification is provided; and
   (b) The cabinet has determined that [in need of protection and unable to remain in his parental home;]
   (c) In placement with a caring relative [who has been determined by the cabinet for families and children to be a preferable alternative to placement with a nonrelative;]
   (d) At risk of commitment to the Cabinet for Families and Children due to abuse or neglect;
   (e) Currently in a nonrelative foster care placement; or
   (f) In a child-only Kentucky Transitional Assistance Program (K-TAP) case, with a prior protection case on record and the relative placement arranged by the cabinet.

(2) The child shall meet technical eligibility requirements pursuant to 921 KAR 2:006.

(3) To qualify as a kinship caregiver [This program shall provide:]

(a) Financial assistance; and

(b) Case-management service to each nonparental relative caring for the child in his home.

Section 2. Program Requirement. (1) A relative whose home is being considered for placement of a child shall:

(a) Receive an approved home evaluation by the cabinet [for Families and Children staff];

(b) Pass a criminal record check;

(c) Be free of a substantiated child or adult abuse or neglect report; and

(d) If there has been a conviction or substantiation on a charge other than a minor traffic offense [offenses], provide evidence of rehabilitation by submitting a character reference from:
   1. A person with good standing in the community who is [not] a relative or close friend; and
   2. An employer or other person who is able to attest to the person's character. If rehabilitation has been sufficiently demonstrated, the cabinet [service region administrator or his designee] shall authorize the evaluation to continue without prejudice.

(4) After a relative is determined to qualify as a kinship caregiver pursuant to (2) Upon completion of the requirements listed in subsection (3) [(4)] of this section, the cabinet and the kinship caregiver [relative] shall execute a Statement of Rights and Responsibilities, incorporated by reference.

(5) [(5)] The kinship caregiver shall participate [responsibility of the relative shall include:]

(a) Cooperation in a child support activity pursuant to 42 USC 601(a);
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

2 Children $ 800
3 Children $ 900
4 Children $1,200
5 Children $1,500
6 or More Children $1,800

(2) The resource limit and countable resources of the child shall be the same as a K-TAP child pursuant to 921 [994] KAR 2:016, Section 2.

(3) Except for the income limit in subsection (1) of this section, countable income of the child shall be the same as a K-TAP child pursuant to 921 [994] KAR 2:016, Section 4(3).

(4) A child eligible for the Kinship Care Program living in the home with a sibling receiving K-TAP shall not be considered a sibling pursuant to 921 KAR 2:016, Section 1(2)(a)(3). [The child shall meet technical eligibility requirements pursuant to 904 KAR 2:006]

(5) The child shall be eligible for payment until the child:
(a) Leaves the home of the relative; or
(b) Has attained the age of nineteen (19) and is no longer a full-time student in:
1. Elementary school;
2. Secondary school; or
3. An equivalent level of vocational or technical school.

(6) A one (1) time start-up amount of up to $500 per child shall be provided for the purpose of supplying each child's immediate need for:
(a) Clothing;
(b) School supplies;
(c) Additional furniture;
(d) A deposit for a larger apartment; or
(e) Other items or services needed to assist the child in establishing himself in the new environment, as determined by the cabinet for Families and Children.

(7) A caretaker relative shall be excluded from the Kinship Care Case.

(8) Income or resources of a kinship caregiver (caretaker relative) shall be disregarded.

Section 5. Support Services. (1) The following services may be provided as needed on a case-by-case basis, as determined by the cabinet, to insure the placement is not disrupted [The Cabinet for Families and Children shall make available to a caretaker relative when needed]:
(a) A child care subsidy pursuant to 922 KAR 2:160; [and]
(b) Respite child care;
(c) F:
(d) Family counseling;
(e) Parenting training; and
(f) If requested, shall be provided to the child and caretaker relative, if needed, as determined by the cabinet.

(9) referral to an available support group;

(2) A case-management service shall be provided through the cabinet for:
(a) At least six (6) months beginning with the date of placement of the child with the relative; or
(b) Until the relative has permanent custody of the child;
(c) A child in the Kinship Care case shall be eligible for an educational bonus pursuant to 921 KAR 2:017, Section 13, shall be provided for the caretaker relative, if requested.

(4) A case-management service shall be supplied to the caretaker relative and child through the Cabinet for Families and Children for a period of at least twelve (12) months.

(5) A caretaker relative shall be referred to available parenting training.

Section 6. Overpayment. (1) A Kinship Care Program overpayment, including assistance paid pending hearing decision, shall be recovered from the kinship caregiver.

(2) An overpayment shall be recovered through:
(a) Repayment by the kinship caregiver to the cabinet; or
(b) Reduction of future Kinship Care Program benefits, that shall result in the family retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like-size family with no income pursuant to Section 4 of this administrative regulation; or...
Section 7. Hearing and Appeal. An applicant or recipient of the Kinship Care Program who is dissatisfied with an action of or inaction on the part of the cabinet relating to the Kinship Care Program benefits shall have the right to a hearing pursuant to 55 KAR 2-000.

Section 8. Incorporated by Reference. (1) "Kinship Care Program Statement of Rights and Responsibilities (11/00) ([999])," is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Families and Children, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
HIREN B. DESAI, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: August 8, 2000
FILED WITH LRC: August 11, 2000 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 2000, at 9 a.m. at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by September 14, 2000, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made, in which case the person requesting the transcript shall be responsible for payment. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation to: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, Office of the Counselor, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, (502) 564-7573 (fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Agency Contact Person: Cathy G. Mobley, Director
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a program for kinship care in Kentucky.
(b) The necessity of this administrative regulation: This administrative regulation is needed to establish uniform conditions and requirements regarding a kinship care program.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to 2000 Ky. Acts ch. 306, Sec. 1 by establishing standards and requirements for a kinship care program. To comply with language in the statute we are changing references to "kinship care provider" to "kinship caregiver," expanding the program statewide, and adding children who are at risk of foster care placement due to the death of both parents.
(d) How this administrative regulation currently assists or will assist in the effective administrative of the statutes: This administrative regulation establishes the Kinship Care Program. It establishes eligibility requirements, financial assistance and payment rates, and support and case-management services for kinship care.
(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 administrative regulation will clarify eligibility regarding a child who is, or otherwise would be, placed in foster care due to substantiated abuse or neglect and to add eligibility for a child due to the death of both parents. It will clarify eligibility requirements for a child placed in Kentucky by another state. It will clarify the kinship caregiver's responsibility of timely reporting a change in circumstances which may affect eligibility; the requirement to take temporary custody of the child and assume permanent custody if the child cannot be reunited with the parents and the requirement to assign support rights to the Cabinet for Families and Children as a condition of eligibility. It will clarify eligibility for a child who is living in the home with a sibling who is receiving Kentucky Transitional Assistance Program (K-TAP).
(b) The necessity of the amendment to this administrative regulation: It is necessary to clarify eligibility regarding a child who is, or otherwise would be, placed in foster care due to substantiated abuse or neglect and to add eligibility for a child due to the death of both parents; child support requirements mandated by 42 USC 608(a)(2) and (3); eligibility regarding a child placed from another state and eligibility of a child living in the home with a sibling receiving K-TAP.
(c) How the amendment conforms to the content of the authorizing statutes: It is necessary to amend the administrative regulation to comply with 2000 Ky. Acts ch. 306, sec. 1 which expands the program statewide and to add eligibility for a child due to the death of both parents.
(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation sets out the guidelines to determine eligibility for the program, the rights and responsibilities of the kinship caregiver and assistance provided by the Cabinet for Families and Children.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect children who have to be placed out of their homes due to the death of both parents or substantiated abuse or neglect. As of June 2000, there were 1,158 recipients in the Kinship Care Program. The estimated number of children who may be affected for the first full year of state-wide implementation will be approximately 2,500 children.
(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 administrative regulation provides assistance to relatives who are willing to accept children into their home who are otherwise at risk of foster care placements. The placement of the child with a caring relative is generally preferable to placement with nonrelatives. This administrative regulation provides an alternative to foster care by placing the child in the home of a qualified caretaker relative. Extending the program from a pilot program to a statewide program will make the program available to more children. Adding eligibility for children who are placed out of their homes due to the death of both parents will also increase the availability of the program. Allowing eligibility for an eligible Kinship Care Program child living in the home with a sibling receiving K-TAP, instead of requiring the child to receive K-TAP in the same case with the sibling will allow additional children to be eligible for the program.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: A total of $6,323,000 in Temporary Assistance for Needy Families (TANF) funds and $500,000 in Social Services Block Grant (SSBG) funds are budgeted in SFY 2001 for the Kinship Care Program. The total budget available is $6,823,000.
(b) On a continuing basis: Same as (5)(a).
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: TANF federal funds and SSBG funds.
(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: Funds were projected and included in the SFY 2001 budget.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increases any fees.
(9) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals statewide.

FEDERAL MANDATE ANALYSIS COMPARISON
1. Federal statute or regulation constituting the federal mandate.
3. Minimum or uniform standards contained in the federal mandate. Assistance is provided to needy families so that children may be cared for in their own homes or in the homes of relatives. A penalty of not less than 25 percent of the amount of assistance is applied for noncooperation of child support activities and no assistance for failure to assign support rights.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No
5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None
GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(New Administrative Regulation)

201 KAR 20:450. Alternative program.

RELATES TO: KRS 314.171
STATUTORY AUTHORITY: KRS 314.131
NECESSITY, FUNCTION AND CONFORMITY: To provide for procedures for the implementation of an alternative program.

Section 1. Definitions. (1) "Approved treatment provider" means an alcohol or drug treatment provider that meets the standards as set out in Section 7 of this administrative regulation.
(2) "Board" means the Board of Nursing.
(3) "Chemically-dependent individual" means a nurse or applicant for a credential issued by the board whose ability to practice according to acceptable and prevailing standards of care is or may be impaired by reason of alcohol or drug abuse.
(4) "Program" means the impaired nurses committee set forth in KRS 314.171, which is the alternative program operated by the board for impaired nurses or applicants for a credential issued by the board. This program shall be known as the Kentucky Alternative Recovery Effort for Nurses.

Section 2. Advisory Council. The board may appoint an advisory council to the program. The board shall develop guidelines under which the advisory council shall function.

Section 3. Admission and Denial to the Program. (1) In order to gain admission to the program, an individual shall:
(a) Be a registered nurse or a licensed practical nurse licensed in the Commonwealth of Kentucky or an applicant for a credential issued by the board;
(b) Request participation in the program regardless of whether referred by the board, self, or another person;
(c) Be licensed as a registered nurse or licensed practical nurse currently enrolled in a state-approved alternative program, if requesting licensure by endorsement from another state;
(d) Admit in writing to being a chemically-dependent individual;
(e) Agree in writing to the terms set forth in the program agreement;
(f) Obtain a current chemical dependency assessment, which includes a complete physical and psychosocial evaluation performed by a licensed or certified medical or psychological specialist in the field of drug, alcohol, or other chemical dependency;
(g) Provide such evaluation and treatment information, disclosure authorizations, and releases of liability as may be requested by the program staff;
(h) Agree to not be employed in any capacity in a patient care setting or one which requires licensure until approved to do so by the program staff, and
(i) Have attended an approved treatment provider program.
(2) Admission to the program shall be denied if the applicant:
(a) Does not meet the eligibility requirements for admission as set by subsection (1) of this section;
(b) Is not eligible for licensure in Kentucky;
(c) Diverted scheduled substances for other than self-administration;
(d) In the opinion of the program staff, will not substantially benefit from participation in the program;
(e) Has a criminal conviction related to the sale or distribution of scheduled substances or legend prescription drugs; or
(f) Has been terminated from alternative program participation in Kentucky or any other state.

Section 4. Requirements for Participation in the Program. A participant shall enter into a program agreement. A participant shall comply with all of the terms and conditions of the program agreement for the time period specified in the agreement. The program agreement shall be updated and modified as needed to address the participant's progress in recovery and may include, but is not limited to, the following:
(1) A requirement that the participant undergo and successfully complete chemical dependency treatment by an approved treatment provider;
(2) A requirement that the participant agree not to practice in any capacity in a patient care setting or one which requires licensure until approved to do so by the program;
(3) A requirement that the participant undergo and successfully complete the continuing care program recommended by the approved treatment provider and designated in the program agreement. The continuing care program may include individual or group counseling or psychotherapy;
(4) A requirement that the participant remain free of alcohol, over the counter medications, mood-altering substances including herbal preparations and any other medication except for substances prescribed by a practitioner authorized by law to prescribe for a specific medical condition;
(5) A requirement that the participant inform all treating health care practitioners of the participant's chemical dependency and recovery status prior to receiving a prescription for any medication, mood-altering substance, or herbal preparation;
(6) A requirement, when a participant must take any substance prescribed or recommended by a practitioner, that the participant provide the program written documentation from the practitioner that the use of the substance does not impair the participant's ability to practice nursing in a safe and effective manner and will not interfere with the participant's recovery program provided the substance is used in accordance with the prescription or recommendation;
(7) A requirement that if the participant is prescribed, recommended, or dispensed any medication by a practitioner, the participant shall cause the practitioner to complete a medication report form provided by the program which shall include the diagnosis and a copy of any prescription from any physician, and shall submit the form to the program within the time specified in the program agreement. Consultation with a physician addictionologist may be required by the program and the participant agrees to abide by any determination made by the physician addictionologist;
(8) A requirement that the participant cause all treatment providers and counselors to provide such reports as may be required by the program at the intervals specified in the program agreement;
(9) A requirement that the participant submit to random alcohol and drug testing when requested by the program, and that the participant comply with all requirements of the program concerning random alcohol and drug testing;
(10) A requirement that the participant attend health professionals' support group and twelve (12) step group meetings as specified by the program agreement, and that the participant verify attendance at these meetings by signature of a group or meeting representative and submit such signatures to the program;
(11) A requirement that the participant comply with the employment restrictions specified by the program agreement;
(12) A requirement that the participant sign a waiver which would allow the program to communicate with the participant's treatment providers, counselors, employers, work site monitors, law enforcement officials and health professionals' support group facilitators, if applicable;
(13) A requirement that the participant be responsible for paying the costs of the physical and psychosocial assessment, chemical dependency treatment, and random alcohol and drug testing, or any other costs incurred in complying with the program agreement;
(14) A requirement that the participant submit a written personal report to the program at the intervals specified by the program agreement;
(15) A requirement that the participant meet in person with a program representative at the intervals specified by the program agreement;
(16) A requirement that the participant obey all federal, state, and local laws and regulations including, but not limited to, all laws and...
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

regulations regulating the practice of nursing in Kentucky; and

(17) A requirement that the participant comply with all other terms and conditions specified in the program agreement which the program determines are necessary to ensure that the participant is able to practice nursing in accordance with acceptable and prevailing standards of safe nursing care.

Section 5. Successful Completion of the Program. (1) A participant successfully completes the program when the participant fully complies with all of the terms of the program agreement for the period as specified in the agreement.

(2) When a participant successfully completes the program, the program shall notify the participant of such successful completion in writing. Once the participant receives this written notification of successful completion of the program, the participant shall no longer be required to comply with the program agreement.

(3) A participant who successfully completes the program shall not be reported to the National Council of State Boards of Nursing’s disciplinary data bank.

Section 6. Causes for Termination from the Program. A participant shall be terminated from the program for the following causes:

(1) Noncompliance with any aspect of the program agreement;
(2) Any violation of KRS Chapter 314;
(3) Receipt of information by the board which, after investigation, results in disciplinary action by the board or
(4) Being unable to practice according to acceptable and prevailing standards of safe nursing care due to chemical dependency.

Section 7. Standards for Approved Treatment Providers. In order to be an approved treatment provider, the treatment provider shall:

(1) Be accredited by the Joint Commission for the Accreditation of Healthcare Organizations or be state-certified and shall have operated as a chemical dependency treatment program for a minimum of one year;
(2) Provide inpatient or outpatient care;
(3) Be based on a twelve (12) step program of Alcoholics Anonymous/Narcotics Anonymous or equivalent support group;
(4) Provide development of an individualized treatment and aftercare program to meet the specific needs of the participant and make recommendations regarding an ongoing rehabilitation plan;
(5) Be based on evaluation by a multidisciplinary team, which includes a psychiatrist, addictionologist, licensed counseling staff, and a core of referral specialists;
(6) Provide adequate detoxification services, including medical support and motivational support with no use of mood-altering drugs past detoxification period unless prescribed by a practitioner consistent with Section 4 of this administrative regulation;
(7) Provide clearly-stated costs and fees for services, and offer fee schedules and flexibility in payment plans to accommodate participants who are underinsured or experiencing financial difficulties;
(8) Demonstrate willingness to provide information to the alternative program regarding the status of the participant after appropriate consents to release information are obtained;
(9) Work closely with the alternative program staff to assure proper implementation and administration of policies and procedures related to the program;
(10) Maintain timely and accurate communication with program staff, including assessments, diagnosis, prognosis, discharge summary and follow-up recommendations as well as reports on significant events which occur in treatment that are related to impairment and the ability to practice safely;
(11) Provide monthly written reports of progress.

JUNE BELL, President
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: August 8, 2000 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 2000, at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2000, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Tel: (502) 329-7000, Fax: (502) 329-8208, Email: nathan.goldman@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: It establishes an alternative program for nurses with substance abuse problems.
(b) The necessity of this administrative regulation: To better protect the public by effecting treatment of nurses with substance abuse problems.
(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 314.171 authorizes this program.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By implementing KRS 314.171.

(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 statute:
(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: Any nurse with a substance abuse problem, number unknown.

(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 group of nurses will receive early treatment for substance abuse and be able to function as nurses safely and competently.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: Additional staff have been hired to operate the program. Besides their salaries, there will be regular operating costs.
(b) On a continuing basis: These costs will continue on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds and a $5 surcharge on nurses’ licensees, pursuant to KRS 314.171.

(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 is anticipated at this time. If an increase in the surcharge is needed, it will be brought to the legislature.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fee or directly or indirectly increase any fee.

(9) TIERING: Is tiering applied? Tiering was not used since to do so would be unconstitutional.
Section 2. School Report Card (Base). (1) A school report card (base) shall be sent to the parents or guardians of each student in a school by United States mail, unless a waiver is granted by the Department of Education for a proposal that is equally effective in notifying parents or guardians of the card and its contents. If a parent or guardian has more than one (1) child in the same school, one (1) report card may be sent to the family.

(2) A school report card shall include the following information:
   (a) The name and address of the school, the name of its principal, and telephone, fax and e-mail contact information, all of which shall be current;
   (b) The total enrollment of the school;
   (c) The school level results of all components of the Commonwealth Accountability Testing System;
   (d) The school level results of state-sanctioned performing arts competitions or other state-sanctioned academic or speech competition, if applicable;
   (e) Teacher qualification information, including:
      1. The percent of classes taught by a teacher certified for subject and grade level;
      2. The percent of classes taught by teachers with a major, minor, or the equivalent in the subject being taught (i.e., certified via an alternative route, having an endorsement in the area being taught, middle school areas of concentration for middle school certification, passing the relevant PRAXIS II content test, or other assessments stipulated by the Education Professional Standards Board);
      3. The percent of classes taught by teachers participating in content-focused professional development related to the content being taught during the base year;
      4. The percent of teachers with a master's degree or greater or the equivalent; and
   5. Average years of teaching experience;
   (f) School safety data including:
      1. Whether visitors are required to sign in;
      2. Whether all parents receive the district discipline code;
      3. What procedures are in place for drug and weapons detection;
      4. The percentage of classrooms with telephones able to access outside lines; and
      5. Data detailing safety violations as to the violations of aggregated assault (with intent to cause injury), drug abuse, and weapons.

The safety data shall include:
   a. The number of incidents;
   b. The number of students suspended or expelled for that kind of incident; and
   c. The number of students transferred to alternative placement for that kind of incident;
   (g) Student resource data including:
      1. Spending per student at the school, district and state level;
      2. Average student/teacher ratios at the school, district, and state level;
      3. Student/computer ratios at the school, district and state level;
      4. Percentage of classrooms with at least one (1) student workstation with Internet access; and
      5. Description of integration of technology into instruction;
   (h) Parent involvement information including:
      1. Number of students whose parent/guardian had at least one (1) teacher conference;
      2. Number of parents and guardians voting in school council (school-based decision making) elections;
      3. Number of parents and guardians serving on the school council or its committees; and
      4. Number of school-related volunteer hours;
   (i) The base school report card shall include a narrative describing to the public actions being taken to address issues in equity related to the delivery of educational services to all students; and
   (j) The names of members of the current year school council with contact information, including telephone numbers or e-mail addresses where the members can be reached for questions or comments.

Section 3. School Report Card (Expanded). A school report card (expanded) shall be available for viewing on request in the office of the school. Copies shall be made available at no charge or at a charge not to exceed cost. The components of the card shall include:
(1) The data disaggregation pages of reports supplied by the Department of Education; (2) Upon the implementation of a statewide student data base, the following shall be required in the expanded school report card: (a) At the high school level, the expanded school report card shall include a list of the advanced placement subjects offered, by grade, the total numbers of students enrolled in each advanced placement class, and these enrollments disaggregated by gender, race, and free and reduced lunch participation. The number of students who take the advanced placement tests and the average advanced placement examination scores by subject shall be disaggregated by gender, race, and free and reduced lunch participation; (b) At the high school level, the expanded school report card shall include an indication of whether or not a Commonwealth Diploma is offered. If offered, the numbers of students earning this diploma shall be disaggregated by gender, race, and free and reduced lunch participation; and (c) The expanded school report card shall include the total numbers of students enrolled in the gifted and talented program in each of the following areas: 1. General intellectual; 2. Specific academic; 3. Creativity; 4. Leadership; or 5. Creative and performing arts. These enrollments shall be disaggregated by gender, race, and free and reduced lunch participation. (3) Documentation of plans, policies and procedures specified in KRS 158.440 for assisting students at risk of academic failure or of engaging in disruptive and disorderly behavior; (4) The number of students and the percentage of the student population participating in special education programs; (5) The number of students and the percentage of the student population receiving instructional accommodations; (6) The executive summary from the school consolidated plan; (7) A listing of average class sizes for core classes including reading, mathematics, science, social studies and writing at all grade levels, and, if feasible, arts and humanities and practical living and vocational studies classes; (8) A school technology report. The school technology and the learning interface section from the consolidated planning comprehensive needs assessment and any technology related action items included in that plan may be used to fulfill this requirement; and (9) The number of students enrolled for a fifth year in the primary program, if the school includes a primary program.

Section 4. District Report Card (Base). A district report card shall include a district level summary of all school data required on the school report card (base) and shall be the aggregation of the school report cards by grade level. This card shall be published in the newspaper with the largest circulation in the county by the date specified in Section 6 of this administrative regulation. The base district report card shall include a narrative describing to the public actions being taken to address issues in equity related to the delivery of educational services to all students. The district report card (base) shall also include the names and appropriate addresses of the district superintendent and members of the local board of education.

Section 5. District Report Card (Expanded). A district report card (expanded) shall be available for viewing in the district central office no later than the date specified in Section 6 of this administrative regulation. Copies shall be made available at no charge or at a charge not to exceed cost. A district report card (expanded) shall include: (1) The data disaggregation pages of reports supplied by the Department of Education; (2) Upon the implementation of a statewide student data base, the following shall be required in the expanded district report card: (a) At the high school level, the expanded school report card shall include a list of the advanced placement subjects offered, by grade, the total numbers of students enrolled in each advanced placement class, and these enrollments disaggregated by gender, race, and free and reduced lunch participation. The number of students who take the advanced placement tests and the average advanced placement examination scores by subject shall be disaggregated by gender, race, and free and reduced lunch participation; (b) At the high school level, the expanded school report card shall include an indication of whether or not a Commonwealth Diploma is offered. If offered, the numbers of students earning this diploma shall be disaggregated by gender, race, and free and reduced lunch participation; and (c) The expanded school report card shall include the total numbers of students enrolled in the gifted and talented program in each of the following areas: 1. General intellectual; 2. Specific academic; 3. Creativity; 4. Leadership; or 5. Creative and performing arts. These enrollments shall be disaggregated by gender, race, and free and reduced lunch participation. (3) Documentation of plans, policies and procedures specified in KRS 158.440 for assisting students at risk of academic failure or of engaging in disruptive and disorderly behavior for the district; (4) The number of students and the percentage of the student population participating in special education programs; (5) The number of students and the percentage of the student population receiving instructional accommodations; (6) The executive summary from the district consolidated plans; (7) A listing of district average class sizes for core classes including reading, mathematics, science, social studies and writing at all grade levels, and, if feasible, arts and humanities and practical living and vocational studies classes; (8) A school district technology report. The school technology plan as required by KRS 157.615 and 157.665 and the district technology and the learning interface section from the consolidated planning comprehensive needs assessment and any technology related action items included in this plan may be used to fulfill this requirement; and (9) The number and percent of students enrolled for a fifth year in the primary program in the district; and (10) Copies of all base school report cards.

Section 6. Reporting Requirements; Timelines. (1) Prior to printing, the school council, or in the absence of a council, the principal, shall review and approve the school report card (base) and school report card (extended). The school report card (base) shall be printed and shall be sent to parents and guardians having students in the schools. (2) The school and district report cards (base) may be placed upon the Internet on a site maintained by the district and shall be linked to the official Department of Education Website. (3) District and school data supplied by the Department of Education shall be available electronically to districts no later than November 1 of each year. (4) Districts shall have twenty-one (21) calendar days in which to report inaccurate data to the Department of Education school report card help desk and to request that the data be changed. (5) The Department of Education shall have twenty-one (21) days from the receipt of the data change request from the district in which to either correct the data or to report to the district that the data will not be altered. (6) After all data alterations have been reported to the district by the Department of Education and before the school report card (base) is sent to parents and guardians, the district superintendent shall send a communication by letter, fax or e-mail to the Department of Education accepting the data as amended. (7) A school report card (base) shall be sent to all parents and guardians no later than seventy-seven (77) calendar days from the department's original release of data to the schools. (8) A school report card (expanded) shall be available in the schools no later than the date when the school report card (base) is sent to parents and guardians. (9) A district report card (base) shall be published in the newspaper with the largest paid circulation in the county no later than the second Sunday in February. (10) A district report card (expanded) shall be available in the district central office no later than the date when the district report card is published in the newspaper, and the school (base) and district (base) report cards may be made available on the Internet.

- 882 -
(11) All school and district report cards shall be made available to the Department of Education upon request.

Section 7. Verification; Audits. The Department of Education shall conduct an audit of school and district report cards for compliance with the provisions of this administrative regulation. School and district report card components generated at the school and district shall be delivered to the Department of Education upon request.

Section 8. Noncompliance. (1) Noncompliance shall include:
(a) Failure to meet a publication deadline;
(b) Failure to mail school report cards (base) or to implement a Department of Education approved plan for distributing them;
(c) Nonpublication of a card component or components;
(d) Unauthorized alteration of date; or
(e) Falsification of data.
(2) Consequences for noncompliance shall include:
(a) If a school or district fails to meet the timeline for publication a component of the school report card, it shall communicate by letter to the Department of Education, identifying the component and indicating when the component was or will be communicated to the appropriate public.
(b) If a school or district fails to mail the report cards to parents and guardians and does not have a waiver granted by the Department of Education for a proposal that is equally effective in notifying parents or guardians of the card and its contents, it shall determine which parents and guardians did not receive a report card and supply one (1) to each of them.
(c) If a school or district refuses to produce a required component of the school report card, the matter shall be referred to the Division of Management Assistance to investigate and make recommendations to the Commissioner of Education.
(d) If a school or district alters data supplied by the department without authorization from the department, it shall supply documentation to the department demonstrating the accuracy of its changes. If the documentation cannot be produced or does not support the alterations made, the matter shall be treated as the publication of incorrect data in paragraph (e) of this subsection.
(e) If a school or district publishes incorrect information in a component of the report card, it shall supply corrected information to the audience that received the incorrect information, using the same medium by which it conveyed the original information. If there is reason to believe that the data error was intentional, the matter shall be referred to the Division of Management Assistance to investigate and make recommendations to the Commissioner of Education.

(2) It may be inspected and copied at the Department of Education, Office of Assessment and Accountability, 18th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. through 4:30 p.m.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 10, 2000
FILED WITH LRC: August 14, 2000 at 1 p.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 22, 2000, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: Kevin Noland, Office of Legal Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Kevin M. Noland
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation defines the implementation and the components of a school and district report card that clearly communicates with parents and the public about school and district performance and establishes the standards for a school and district report card.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 158.6453.
(c) How this administrative regulation conforms to the content of the authorizing statute: It provides the specifics for the school and district report card.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides the specifics for the school and district report card.
(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: NA
(b) The necessity of the amendment to this administrative regulation: NA
(c) How the amendment conforms to the content of the authorizing statute: NA
(d) How the amendment will assist in the effective administration of the statutes: NA
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts (176) and all schools (approximately 1,400) operated by these districts; all parents/guardians of students who attend these public schools.
(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 regulate a process by which all parents/guardians of students attending all public schools will receive information and data on the educational performance of their school and district.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There is a cost to local school districts for mailing or otherwise distributing the school report card to parents of students attending public schools. This cost will vary by the size of the school and school district.
(b) On a continuing basis: Local school districts will be required to distribute the school report card to parents of students attending public schools on an annual basis.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Local and state funds.
(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: This regulation does not require an increase in fees or funding.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not require any fees.
(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because it applies equally to all school districts.
705 KAR 2:121. Repeal of 705 KAR 2:120.

RELATES TO: 2000 HB 502
STATUTORY AUTHORITY: KRS 156.070, 2000 HB 502
NECESSITY, FUNCTION, AND CONFORMITY: 705 KAR 2:120 is no longer required since a new administrative regulation 705 KAR 2:140E, is being promulgated to provide equalization of funding for locally operated vocational centers and vocational departments. 2000 House Bill 502 directs the Kentucky Board of Education to promulgate an administrative regulation for the distribution of all funds appropriated by the General Assembly for the twenty-six (26) school districts operating vocational centers and departments. 705 KAR 2:120 provides for distribution of funds based on the number of teachers in a vocational center or department. This system of allocating funds is not equitable due to some programs being more costly than others and since the cost of conducting programs is significantly dependent upon the number of students enrolled. This method of distribution of funding is not equitable and is being replaced by 705 KAR 2:140E.

Section 1. 705 KAR 2:120, Distribution of funds for local operation of area vocational education centers and local vocational departments, is hereby repealed.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 10, 2000
FILED WITH LRC: August 14, 2000 at 1 p.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 22, 2000, at 10 a.m. in the State Board Room, First Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 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: Kevin Noland, Office of Legal Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation is being proposed to repeal the obsolete regulation on distributing funds to locally operated vocational centers and departments.
(b) The necessity of this administrative regulation: To repeal the current regulation on funding due to new language in the Budget Bill, HB 502.
(c) How this administrative regulation conforms to the content of the authorizing statute: The Kentucky Board of Education is responsible for establishing policies affecting secondary education, pursuant to KRS 156.029, 156.030, and 156.070.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Allows the state board to establish a procedure for distributing funds to locally operated centers and departments.
(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: Not applicable.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing statute: Not applicable.
(d) If the amendment will assist in the effective administration of the statutes: Not applicable.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation is applicable to 25 local school districts who operated vocational centers and departments.
(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: No impact since the regulation is being repealed.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.
(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 fees are required.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are required.
(9) TIERING: Is tiering applied? Tiering is not applicable, as this is a repealer regulation.

EDUCATION, ARTS, AND HUMANITIES
Kentucky Board of Education
Department of Education
Office of Special Instructional Services
(New Administrative Regulation)

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

RELATES TO: 2000 Ky. Acts Ch. 549, Part IX, 14d
STATUTORY AUTHORITY: KRS 156.070, 2000 Ky. Acts ch. 549, Part IX, 14d
NECESSITY, FUNCTION, AND CONFORMITY: 2000 HB 502 requires that all funds appropriated by the General Assembly to support locally-operated area vocational centers and vocational departments be distributed by a weighted funding formula that is based on the cost of programs and the full-time equivalent (FTE) student enrollments. This administrative regulation establishes the formula and process for distribution of appropriated funds to local school districts operating area vocational centers and vocational departments.

Section 1. Definitions. (1) "Career orientation and exploration" means a vocational technical program in which students gain knowledge and experience regarding career orientation of an occupational area and basic technical skills used within the occupational area.
(2) "Technical skill program" means a vocational technical program in which students develop technical skills focused in an occupational area, and low cost technical equipment, including computers and other portable equipment, are required for the instructional program.
(3) "High-cost technical skill" means a vocational technical program in which students develop highly technical skills focused in a specific occupational area and high-cost equipment, materials, and facilities are required for the instructional program.
(4) "Area vocational center and vocational department" means a facility which is established for vocational technical education pursuant to 705 KAR 3:140.

Section 2. The Department of Education, in consultation with the Department for Technical Education, shall classify secondary vocational technical programs as career orientation and exploration, tech-
nical skill, and high-cost technical skill programs.

Section 3. The full-time equivalent (FTE) student enrollment shall equal the total number of students enrolled in technical skill and high-cost technical skill programs statewide, multiplied by the number of hours students are enrolled (divided by two (2) if semester courses) divided by six (6) (hours per instructional day). The value of the weight shall equal the total funding allocation from the General Assembly for the fiscal year divided by the weighted total FTE for technical skill and high-cost technical programs, with technical skill programs weighted one (1) and high-cost technical skill programs weighted one and one-half (1.5).

Section 4. A school district with an approved locally-operated vocational center or department shall receive a funding allocation equal to the total of the number of FTE students in technical skill programs multiplied by the value of the weight for these programs, plus the total of the number of FTE students in high-cost technical skill programs, multiplied by the value of the weight for these programs.

Section 5. (1) The Department of Education shall notify a local school district of its tentative allocation for operation of its locally-operated vocational center and vocational department for the following school year by June 30 based on the classification of the previous year's secondary vocational program offerings and program FTE enrollment.

(2) The final allocation shall be determined by January 1 based on current year: FTE enrollment with adjustments made for new programs.

(3) A school district shall notify the Department of Education, Division of Secondary Vocational Education, by April 1 if it plans to add or delete any program the following school year.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 10, 2000
FILED WITH LRC: August 14, 2000 at 1 p.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 22, 2000, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by September 15, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: Kevin Noland, Office of Legal Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the funding formula for distributing general funds to locally-operated area vocational centers and departments, as required in the Budget Bill language, HB 502.
(b) The necessity of this administrative regulation: Establishes the criteria for allocating funds to locally-operated vocational centers and departments based on the type of program offered and the full time equivalent enrollment in secondary vocational education programs.
(c) The weighted formula be used that would consider the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes how the funds will be distributed to locally operated vocational centers and departments.
(e) 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: Not applicable, this is a new regulation.
(b) The necessity of the amendment to this administrative regulation: Not applicable, this is a new regulation.
(c) How the amendment conforms to the content of the authorizing statute: Not applicable, this is a new regulation.
(d) How the amendment will assist in the effective administration of the statutes: Not applicable, this is a new regulation.
(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently this regulation applies to 25 local school districts which operate vocational centers and departments.
(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: This regulation will fairly distribute the funding to the school districts and it also begins to bring some equity in funding between locally-operated and state operated centers.
(g) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The General Assembly approved $3.85 million in equity funding to support the schools affected by this regulation in addition to the $5.8 million in base funding which was approved in previous years.
(b) On a continuing basis: Additional funding will be needed in the next biennium to create full equity in funding locally-operated centers.
(g) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General funds.
(h) 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 fees are required.
(i) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are required.
(j) TIERING: Is tiering applied? Tiering was not applied as it applies equally to all school districts which have locally-operated vocational centers and departments.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of Special Instructional Services
(Repealer)

705 KAR 4:052. Repeal of 705 KAR 4:051.

RELATES TO: KRS 156.029, 156.070
STATUTORY AUTHORITY: KRS 156.029, 156.070
NECESSITY, FUNCTION, AND CONFORMITY: 705 KAR 4:050 is no longer required due to the fact that the Department of Education no longer recommends special vocational programs as a separate vocational program restricted only to exceptional children. This program has been replaced with Pathways to Careers and students may participate in cooperative education as a component of this program. Work experience is included as a type of work-based learning in 705 KAR 4:251, General program standards for secondary career and technical education programs. Therefore, an administrative regulation dealing specifically with work experience is not necessary.

Section 1. 705 KAR 4:051, Work experience program standards, is hereby repealed.
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation repeals an existing regulation relating to work experience programs. That regulation is obsolete since these programs were designed for students in special vocational programs. Students are now mainstreamed in regular vocational education programs.
(b) The necessity of this administrative regulation: Repeals an obsolete regulation.
(c) How this administrative regulation conforms to the content of the authorizing statute: The State Board is responsible for setting policies for secondary education, pursuant to KRS 151B.025, 156.029, and 156.070.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Repeals obsolete regulation.
(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: Not applicable.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing statute: Not applicable.
(d) How the amendment will assist in the effective administration of the statutes: Not applicable.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All 176 local school districts are affected by the repeal of this 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: No impact since the regulation is being repealed.
(5) Provide an estimate of how much it will cost to implement this administrative regulation: No cost is required
(a) Initially:
(b) On a continuing basis:
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.
(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 fees are required.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are required.
(9) TIERING: Is tiering applied? Tiering is not applicable, as this is a repealer regulation.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Epidemiology and Health Planning
(New Administrative Regulation)

902 KAR 17:050. Release of public data sets for health care discharge data.

RELATES TO: KRS 216.2920 to 216.2923
STATUTORY AUTHORITY: 194A.030, 194A.050, 216.2927 through 216.2929

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2923 mandates that the Cabinet for Health Services publish and make available information relating to the health care delivery and finance system that is in the public interest. KRS 216.2927 mandates that personally identifying data collected by the Cabinet for Health Services from health care providers not be released to the general public nor be allowed public inspection under KRS 61.870 to 61.884. This administrative regulation establishes the guidelines for distribution and publication of data collected by the cabinet pursuant to 902 KAR 17:040, while maintaining patient confidentiality and further protecting personally identifying information.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Health Services.
(2) "Data" is defined in KRS 216.2927.
(3) "Health care provider" is defined in KRS 216.2920.
(4) "Public" means a person or group not directly responsible for the collection, maintenance, custody, or dissemination of data as defined in KRS 216.2927.
(5) "Report" means a summarization or compilation of data disseminated to the public.

Section 2. Encounter-Level Data. (1) Encounter-level hospital discharge data shall be released in one (1) of the following standard file formats as described in the table below:

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<thead>
<tr>
<th>Data Element</th>
<th>File 1</th>
<th>File 2</th>
</tr>
</thead>
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<td>X</td>
</tr>
<tr>
<td>Quarter &amp; Year of Discharge</td>
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<td>X</td>
</tr>
<tr>
<td>Patient Gender</td>
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<tr>
<td>Patient Age Group</td>
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<td>X</td>
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<td>Patient Race/Ethnicity</td>
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<td>Patient Resident County</td>
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<td>Source of Admission</td>
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<td>Diagnosis 1 (Primary)</td>
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<td>Diagnosis 2</td>
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<tr>
<td>Procedure Method</td>
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<td>Procedure 1 (Primary)</td>
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<td>X</td>
</tr>
<tr>
<td>Procedure 2</td>
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<td>Payer 2</td>
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Section 3. Summary Data. (1) The cabinet shall not release data identified in KRS 216.2297.
(2) The cabinet may include the following data elements, in any combination thereof, for encounter-level, aggregate and summary report formats:
(a) Diagnoses and procedures, primary and any other level;
(b) Diagnosis and procedure groupings, including diagnostic related groups (DRGs), major diagnostic categories (MDCs), and agency for health care policy and research (AHICPRs) clinical classification system;
(c) Patient gender;
(d) Age or age grouping;
(e) Discharge status;
(f) Payor category, all levles;
(g) Charge information, total and ancillary;
(h) County of patient residence;
(i) County of provider;
(j) Ancillary department information;
(k) Length of stay, total and average;
(l) External cause of injury; or
(m) Mortality rate. Reports including mortality rates shall be adjusted by severity of illness by a reputable grouping software, either on a contract basis or by the cabinet.
(3) At least thirty (30) working days prior to the release or dissemination of the reports identified in subsection (2) of this section, the cabinet shall permit a health care provider identified in the report the opportunity to verify the accuracy of information pertaining to the provider. Within the thirty (30) day period, the provider may submit to the cabinet corrections or errors in the compilation of the data with supporting evidence.
(4) The cabinet shall correct data found to be in error and shall include additional commentary as requested by the provider for major deviations in the individual provider's data from the statewide average.
(5) Data shall not be withheld from the public or another interested party based solely on an unfavorable profile of a provider or group of providers, if the data is deemed reliable, accurate and free from sufficient errors, as determined by the cabinet and pursuant to 902 KAR 17:040, Section 5.

Section 5. Release of Data. (1) A person or agency shall, as a condition for receiving data from the cabinet, sign an "Agreement for Use of Kentucky Health Claims Data". A person or agency receiving data shall agree to adhere to the confidentiality requirements established in subsection (2) of this administrative regulation and KRS 216.2297.
(2) To protect patient confidentiality:
(a) Reports or summaries of data that consist of five (5) or fewer records shall not be released or made public;
(b) A person or agency receiving data shall not redistribute or sell data in the original format;
(c) Distribution of data received by the cabinet shall be approved by the custodial agency prior to receipt of the data.
(d) The data collected pursuant to 902 KAR 17:040 shall be used only for the purpose of health statistical reporting and analysis or as specified in the user's written request for the data.
(e) Users shall not attempt to link the public use data set with individually identifiable records from another data set.

Section 6. Fees. (1) The cabinet shall charge $1,500 for the purchase of a single copy of File 1 of an annual, public-use data set, and $500 for the purchase of a single copy of File 2 of an annual, public-use data set.
(2) Public-use data sets will be available for purchase no later than sixty (60) days after the end of the facility reporting period as established in 902 KAR 17:040, Section 4. Special requests for data shall be prioritized and completed at the discretion of the custodial agency.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, Division of Epidemiology and Health Planning, Health Policy Development Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

RICE C. LEACH, M.D., Commissioner
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: August 15, 2000
FILED WITH LRC: August 15, 2000 at noon
PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 2000, at 9 a.m. in the Cabinet for Health Services Auditorium, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Jill Lewis, Cabinet Regulation Coordinator, Office for General Counsel, Cabinet for Health Services, 275 East Main Street - 4-W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7873 (Fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charles Kendall, (502) 564-9592
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation defines and sets release guidelines and associated costs for public use data sets derived from UB-82 data collected by the cabinet as required by KAR 902 17:040.
(b) The necessity of this administrative regulation: This regulation is necessary to appropriately and fairly distribute public use data sets to interested parties without delay.
(c) How this administrative regulation conforms to the content of the authorizing statute: By making this data available in a usable format to the general public.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will set up a process for releasing the data and allow for easier distribution and quicker response to requests for data.
(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, state and local governments affected by this administrative regulation: This regulation will affect only businesses, organizations, and individuals interested in obtaining the data.
(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 benefit the interested parties who have routinely requested this data.
(5) Provide an estimate of how much it will cost to implement this administrative regulation: There will be no cost to implement this administrative regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General fund dollars budgeted to the Health Policy Development Branch.
(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: Charges for data sets are used to fund this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a fair and appropriate fee for the purchase of a public use data set.

(9) 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.
The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 1, 2000 at 10 a.m. in Room 131 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the July 11, 2000 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Joey Pendleton, Richard Roeding and Marshall Long; Representatives Woody Allen, Jimmie Lee and James Bruce.

LRC Staff: Dave Nicholas, Donna Little, Stephen Lynn, Edna Lowery, Susan Wunderlich, Ellen Steinberg, Ellen Benzing, Dan Risch, Bill Baker, Don Hines.

Guests: Rick Casey, Linda Renschler, Robin Thomerson, KHEAA; Daniel F. Egbers, Singer Buchanan, Personnel Cabinet; Richard Dobson, Revenue Cabinet; Michael A. Mone, Office of Pharmacy; Jim Grawe, Bill L. Jett, Board of Social Work; John P. Sohan, Diane Fleming, Lisa Smith, Board of Marriage and Family Therapists; Scott Porter, Roy Grimes, Tom Bennett, Department of Fish and Wildlife Resources; Phyllis Bruning, Economic Development Cabinet; Jina Linville, Bruce Williams, Sherry Prior, Vicki Pettus, Katie Ashcraft, Bruce Scott, Natural Resources and Environmental Protection Cabinet; Dr. Rich Purvis, Brenda Priestley, Dr. Gary Dennis, Tamela Biggs, Department of Corrections; Amy Barker, Dennis Wagner, Sex Offender Risk Assessment Advisory Board; Ken Schwendeman, John Blizzack, Stephanie C. Blingham, Department of Criminal Justice Training; Kevin Nolard, Barb Kililer, Board of Education; Patricia Willimas, State Advisory Panel for Exceptional Children; Sherry R. Deatrick, Workforce Development Cabinet; Rick Jones, David Reichert, Colleen Keefe, Department of Financial Institutions; Judith Walden, Department of Housing, Buildings and Construction; Rosanne Barkley, Joyce Matts, Shirley Eldridge, Pat Patterson, Cabinet for Families and Children; John A. Volpe, Vicki D. Jeffs, Deborah Green, Barbara Utter, James Carerer, W. L. Moore, Karen Doyle, Cabinet for Health Services; Teresa T. Combs, Kentucky School Boards Association; Betty D. Munzt, Kentucky Council of Administrators of Special Education; Mardi Ginter, Clatis Walker, Central Kentucky Special Ed Cooperative; Judy Mallory; John Roberts, Director of Hardin County Special Ed; Keith Omer, Union County Schools; Wade Helm, Kentucky Conservation Committee; W. Henry Graddy, Aloma Dew, Sierra Club; W. Blaine Early Ill, Slates & Harbison; Allen Chambers, Jeff Power, Morris Hill, Todd Wright, Tyson Foods, Inc.; Kate Perskien, Ann Wilkeson, Kentuckians for the Commonweelh; Howard McGregor; Edna Bates; Charles Bates; Bernadine Edwards, McLean County Against Factory Farms (MCAFF); Debra Stamps; Ballard Cassidy, Jr., Kentucky Bankers' Association; Carol L. Grissett; Howard McGregor; Carol Howton Long; Edna Bates; Charles Bates; Gay Dwyer, Kentucky Retail Federation; Robert L. Barnett, Jr., Kentucky Pharmacists Association; Ted Bradshaw, IIAC; Michael W. Wooden, Sprint, Inc.; Greg Coker, Ron Geoghegan, BellSouth; Joe A. Nepi, Doe Valley of Mead County; Jennifer Rhoades, MPEAK.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, did not comply with statutory requirements and were found deficient:

Board of Licensure of Marriage and Family Therapists

201 KAR 32:030. Fees. John Sohan, Chairman, and Diane Fleming, present; no constituent representatives on the board.

In response to questions by Representative Allen, Mr. Sohan stated that: (1) in 1998, the General Assembly changed the three year certification requirement for marriage and family therapists to a one year licensure requirement; (2) this administrative regulation: (a) implemented that statutory change; (b) eliminated the $250 three-year certification fee; and (c) established a $110 one-year licensure fee; and (3) the fee amount was increased by approximately $27 a year to enable to the board to: (a) pay for increased litigation; and (b) hire additional attorneys for disciplinary hearings.

Representative Allen stated that: (1) state agencies, including those agencies that had a six billion dollar budget, always provided good reasons for fee increases; and (2) he wondered when Kentucky citizens would complain about the fee increases because the fee increases: (a) were frequent; and (b) would be passed on to the citizens of Kentucky.

Chairman Arnold stated that: (1) while he agreed with some of Representative Allen's concerns, he did not agree with all of his concerns; and (2) he realized that (a) state agencies required money to police professions; and (b) as costs increased, those agencies sometimes required additional funding.

In response to questions by Senator Roeding, Mr. Sohan stated that the Board: (1) had the ability to predict how much additional money would be needed to cover the litigation costs; (2) had entered into a memorandum of agreement with one hearing officer to establish the maximum amount to be charged in one case; and (3) had an increased number of cases as citizens in Kentucky: (a) became more aware that marriage and family therapists were licensed; and (b) brought more charges against therapists.

In response to questions by Senator Roeding, Subcommittee staff stated that: (1) as the board was transitioning from a three year certification cycle to a one year licensure cycle, the Board would have: (a) one year with a large income; and (b) two years with smaller incomes; (2) on a three year cycle, the money collected in the first year needed to last all three years; (3) he did not know whether 1996, 1999, or 2000 was the first year of the Board's current three year cycle; and (4) the Board would be able to plan and budget better under an annual licensure system compared to a three year cycle.

Representative Allen stated that he: (1) believed state agencies found ways to spend all the money appropriated to, or collected by, the agency; (2) wanted to express his vote against this administrative regulation; and (3) moved to find this administrative regulation as amended, deficient.

Senator Long stated that: fee increases should: (1) be made through legislation considered by the General Assembly; and (2) not be made through administrative regulations considered by the Subcommittee.

This administrative regulation was amended as follows: Section 7 was amended to make a technical correction to the provisions incorporating material by reference.

The Subcommittee approved a motion by Representative Allen, seconded by Senator Roeding, to find this administrative regulation, as amended, deficient, with: (1) Senators Pendleton and Roeding, and Representatives Allen, Bruce, and Lee voting to find this administrative regulation, as amended, deficient; and (2) Senator Long and Chairman Arnold voting not to find this administrative regulation, as amended, deficient.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Water Quality

401 KAR 5:072 (B E). Concentrated animal feeding operations. (*E* expires 8/1/00) Bruce Williams, Deputy Secretary, and Bruce Scott, Division of Water, represented the Cabinet. Written comments in support of this administrative regulation were submitted by Aloma Dew, Sierra Club Conservation Organizer. Written comments in opposition to this administrative regulation were submitted by David Van Bebb, Vice President, Legal Services, Tyson Foods, Inc.; John Chlads, Director, Environmental Services, Perdue Farms Inc.; and Rebeckah T. Freeman, Director of Natural Resources, Kentucky Farm Bureau Federation.

Senator Long moved for approval of the amendment. The motion was seconded by Representative Bruce.

In response to a question by Chairman Arnold, Senator Long stated that the amendment exempted horses.

Chairman Arnold stated that he wanted this administrative regulation to include horses because: (1) like other animals, horses produced manure; and (2) the burden should not be put solely on the beef and dairy cattle, poultry, and swine industries.

Representative Lee stated that while he believed this amendment
had merit, because the issues raised by this administrative regulation were the subject of an ongoing legal challenge, he did not feel comfortable making a decision prior to the court's ruling regarding the Cabinet's authority to promulgate this administrative regulation.

Senator Long stated that: (1) while he had heard complaints from people who lived next to poultry farms, he had not heard complaints from neighbors of horse farms or dairy farms; (2) generally horse owners kept the horses away from the road to protect the valuable horses; and (3) while everyone knew that the Subcommittee would find this administrative regulation deficient, he believed that some regulations were needed because the industries posed significant health problems.

Chairman Arnold stated that he: (1) liked horses, beef, pork, and other animals; (2) had not heard complaints regarding horse, beef, dairy, or swine farms; (3) had heard complaints regarding poultry farms; (4) did not think horses should be subject to different standards; and (5) agreed with Representative Lee that the issues needed to be settled in court.

Senator Roeding stated that: (1) the amendment highlighted some of this administrative regulation's unintended consequences, including its affect on horse farms, race tracks, and others; (2) this administrative regulation should not be approved until its consequences are known; (3) the Cabinet should: (a) withdraw this administrative regulation because it was deficient; and (b) contact legislators in other states and in this area, to see how those other states regulated animal industries; and (4) he: (a) supported the amendment; and (b) did not want to see this administrative regulation destroy Kentucky's industries.

Representative Allen stated that while he loved horses, he believed the other industries needed to be treated equally.

Representative Lee stated that he supported the amendment because horses, and other animals, should be exempt from this administrative regulation.

The Subcommittee approved the motion to amend this administrative regulation, with: (1) Senators Long, Pendleton, and Roeding, and Representatives Bruce and Lee voting to amend this administrative regulation; and (2) Representatives Allen and Arnold voting not to amend this administrative regulation.

Chairman Arnold stated that: (1) the inclusion of horses would have placed added pressure on the Cabinet to reduce the requirements established in this administrative regulation; and (2) if horses were included, the horse industry could assist the beef cattle association, dairy farming association, poultry association, and swine association in their attempts to: (a) work with the Cabinet to reduce the requirements of this administrative regulation; and (b) litigate the relevant issues.

Senator Roeding: (1) stated that the unintended consequences of this administrative regulation should be considered; and (2) moved that this administrative regulation, as amended, be found deficient.

In response to questions by Representative Lee, Mr. Williams stated that: (1) the Cabinet: (a) liked this administrative regulation; (b) believed that this administrative regulation would protect the citizens of Kentucky from problems caused by large feeding operations; and (c) developed this administrative regulation from guidelines given by the federal government to develop and expand the NPDES program, which was similar to the federal NPDES program; (2) this administrative regulation: (a) only affected large feeding operations; (b) did not affect current beef cattle operations because none of the current cattle operations in Kentucky would qualify as a concentrated animal feeding operation; (c) mainly affected large swine and poultry operations; and (d) did not prohibit a person from operating a concentrated animal feeding operation; and (3) the Cabinet and the governor felt very strongly about this administrative regulation's ability to protect Kentucky citizens.

Representative Lee stated that: (1) the Cabinet had just gone on record as having stated that this administrative regulation represented what the Cabinet needed to do; (2) before the 2000 Regular Session, the Subcommittee found a similar administrative regulation deficient; (3) if the Cabinet had felt strongly about that administrative regulation, the Cabinet should have put forth an effort to codify its provisions during the 2000 General Assembly; (4) legislation to codify the previous swine administrative regulations had not been made; (5) he hoped that the Cabinet would propose legislation to codify this administrative regulation at the next session of the General Assembly, which he hoped would be in February 2001, to enable the 138 members, rather than the Subcommittee's seven members, to decide what requirements should be imposed on animal feeding operations; and (6) if this administrative regulation's provisions were so important that the citizens could not live without them, those provisions should be codified into the Kentucky Revised Statutes.

Mr. Williams stated that: (1) in the 1998 Regular Session, House Bill 705 (a) addressed the swine situation posed in earlier administrative regulations; and (b) was not passed despite efforts by the Cabinet, Kentucky Farm Bureau, and other agricultural agencies to enact legislation; and (2) since the 1998 Regular Session, the federal government produced guidelines that required states to make changes to the existing NPDES program based on requirements in existing law.

Representative Lee stated that: (1) if actual federal requirements had been disclosed to the Subcommittee, the Subcommittee would not question its applicability because federal law was enacted by the representatives and senators elected to serve in Congress; (2) provisions in this administrative regulation exceeded the federal requirements; (3) the General Assembly, rather than the seven Subcommittee members, should decide the requirements in Kentucky for animal feeding operations; and (3) he hoped the first Cabinet-sponsored bill in the next session addressed animal feeding operations.

In response to questions by Senator Roeding, Mr. Williams stated that the Cabinet had prepared an amendment to the federal mandates analysis form, the Cabinet had indicated that this administrative regulation did not impose stricter standards than those standards established by the federal government; (2) the Cabinet relied on: (a) the Environmental Protection Agency and United States Department of Agriculture's Unified National Strategy for Animal Feeding Operations, which was released in March, 1999; and (b) clarification received since that time from the EPA regarding issues that included integrator liability; and (3) the federal government sent the Cabinet a letter that advised the Cabinet to impose integrator liability.

Subcommittee staff stated that the unified national strategy was: (1) the opinion of the USDA and EPA as to what the federal law was; and (2) not actual federal law or regulation.

Mr. Williams stated that: (1) the federal government interpreted the regulation process differently at the federal level than the states did; and (2) the guidelines represented the federal agencies' requirements for the states on how to implement the program.

Chairman Arnold stated that: (1) this administrative regulation: (a) established requirements based on the opinions of the Cabinet, EPA, and USDA; (b) was not based on federal statutes or regulations; and (c) was more stringent than Kentucky law; and (2) each person had different opinions as to what the law should be.

Senator Long stated that: (1) some administrative regulations were needed to address concerns raised by the citizens negatively affected by large feeding operations; (2) as Kentucky farmers weaned themselves from tobacco, the number of animal feeding operations would increase; and (3) he: (a) did not believe legislation that established animal feeding operation requirements would pass the General Assembly; and (b) believed minimal restrictions were needed in Kentucky.

Representative Allen stated that: (1) things had changed since he was a boy as he remembered when his family would gather chickens and eggs to take to the store or market in exchange for goods and commodities; (2) back then, people had plenty to eat; (3) as the world's population increased, the amount of food needed to feed everyone increased; (4) he remembered when he was asked to eat outside a restaurant because his clothes had carried the bad smells from the hogs he was taking to Bowling Green for market; (5) because there was no way to keep the seeds from landing on people who didn't want to live around chicken or hog farms; (6) because of the amount of food needed to feed the world's population, the industry could not return to the times in which insecticides and pesticides were not used; (7) while he recognized the need for some regulations, he also recognized the need to balance the interests of: (a) companies such as Perdue Chicken in Ohio County which had created opportunities for farmers who were losing their tobacco crops; and (b) neighbors who were not able to sit outside on their personal property because of the animal smell from neighboring farms; and (8) he did not want future administrative regulations to: (a) put the small
farmer out of business; or (b) create an agricultural monopoly in just a few businesses.

Mr. Williams stated that: (1) he: (a) had worked with Representative Allen for many years; (b) had the greatest respect for him; (c) was a former staff person of the Legislative Research Commission; and (d) understood how difficult it was to balance the needs of the competing interests; and (2) the Cabinet: (a) recognized that farming had changed; (b) established requirements to keep farming compatible with environmental and other concerns; and (c) realized that this administrative regulation would not please everyone.

Chairman Arnold stated that he: (1) concurred with Representative Allen’s comments; (2) was raised on a similar farm; (3) remembered the smells from hogs, chickens, and horses; and (4) believed this administrative regulation: (a) was deficient; and (b) went too far; (5) believed integrator liability would lead to increased prices for meat that Kentucky citizens would not be willing to pay.

Chairman Arnold also stated that he: (1) wanted to apologize to those individuals who: (a) had wanted to speak on this administrative regulation; and (b) were not invited to speak due to time considerations; and (2) believed this issue would be continuously debated until the General Assembly met again, either in 2002 or in February 2001.

This administrative regulation was amended as follows: (1) Section 1 was amended to clarify that this administrative regulation applied to beef, dairy, poultry, and swine concentrated animal feeding operations; and (2) Sections 3 and 4 were amended to comply with the drafting requirements of KRS 13A.222(4).

The Subcommittee unanimously approved a motion by Senator Roeding, seconded by Representative Allen, to find this administrative regulation, as amended, deficient.

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: Teacher Scholarship Loan Program

11 KAR 8:030. Teacher scholarships. Rick Casey, General Counsel, and Linda Renschler, Student Aid Branch Manager, represented the Authority.

In response to questions by Senator Roeding, Ms. Renschler stated that: (1) the teacher scholarship amounts ranged from $500 to $5000 a year depending on the: (a) grade level and financial need of the student; and (b) cost of attendance at that institution; (2) the scholarships were repaid through either: (a) service; or (b) money; and (3) the Authority hoped that students repaid the scholarships through service, which required them to teach at a certified high school in Kentucky.

This administrative regulation was amended as follows: (1) Section 2(1) was amended to specify the name of the required application form; and (2) Section 11(1) was amended to incorporate by reference the most recent application form in the format required by KRS 13A.2251.

Personnel Cabinet: Classified

101 KAR 2:140. Workers’ Compensation Fund and Program. Dan Egbars, General Counsel, Singer Buchanan, Deputy Secretary, and Kathy Clark, Branch Manager, represented the Cabinet.

In response to questions by Senator Long, Ms. Clark stated that: (1) the University of Louisville was permitted to withdraw from the state employees workers’ compensation fund program; and (2) non-state government employer participants in the program were allowed to withdraw from the program.

In response to a question by Senator Roeding, Mr. Egbars stated that this administrative regulation did not involve changes made to the workers’ compensation program.

This administrative regulation was amended as follows: Sections 1, 4, 5, and 7 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Board of Pharmacy

201 KAR 2:205. Pharmacist-in-charge. Michael Moné, Executive Director, represented the Board.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3); and (3) Sections 2 and 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

The Board of Social Work

201 KAR 2:240. Special limited pharmacy - charitable pharmacy. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) Section 2 was amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (3) Section 2 was amended to require the filing of a plan outlining the method by which the stock of the pharmacy and the charitable pharmacy will remain separate.

Board of Social Work

201 KAR 23:015. Temporary permission to practice. Bill Jeff, Chairman, and Jim Grawe, Assistant Attorney General, represented the Board.

This administrative regulation was amended as follows: the STATUTORY AUTHORITY paragraph and Section 1 were amended to correct statutory citations.

201 KAR 23:070. Qualifying education and qualifying experience under supervision. This administrative regulation was amended as follows: (1) Sections 3, 4, and 9 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (2) Section 1 was amended to include a definition of “Supervisor of record”; and (3) a new Section 10 was created to incorporate required materials by reference.

201 KAR 23:060. Code of ethical conduct. In response to questions by Senator Roeding, Mr. Jeff stated that this administrative regulation: (1) provided that a client would be considered to remain a client for five years after the date of the last service rendered to protect the consumer against any inappropriate sexual conduct by the practitioner; and (2) prohibited a practitioner from having a personal relationship that was of a romantic or sexual nature less than five years after the last date of professional contact with the person.

This administrative regulation was amended as follows: Section 1 was amended to remove regulatory requirements from the definition and place those requirements in Section 2.

Board of Licensure of Marriage and Family Therapists

201 KAR 32:081. Inactive licensure status. John Sohan, Chairman, and Diana Fleming, Assistant Attorney General, represented the Board.

In response to questions by Representative Bruce, Mr. Sohan stated that: (1) this administrative regulation authorized a marriage and family therapist to voluntarily place his license in an inactive status; and (2) if the person wanted to return to active status within a three year time period, the Board would permit them to return to active status.

In response to questions by Chairman Arnold, Ms. Fleming stated that while there was not a required test to become active again, persons were required to maintain the continuing education requirements. This administrative regulation was amended as follows: Section 1 was amended to comply with the format requirements of KRS 13A.220(4).

201 KAR 32:101. Reinstatement of license subject to disciplinary action. In response to questions by Senator Roeding, Ms. Fleming stated that: (1) not all licenses that were voluntarily surrendered would be treated as though the license had been revoked; (2) sometimes a person who faced charges wished to surrender his license to resolve the matter; and (3) a license was surrendered as if revoked carried disciplinary weight that differed from a person who just voluntarily surrendered his license.

In response to a question by Senator Pendleton, Ms. Fleming stated that the Board records would note if a person turned in his license because the person: (1) no longer wished to practice; or (2) had signed an agreed order to knowingly and voluntarily turn in his license as if revoked following a disciplinary proceeding.

The Subcommittee staff stated that this administrative regulation: (1)
applied in a disciplinary matter when a person was charged with an offense; and (2) did not apply if a person let his license lapse.

In response to a question by Senator Long, Mr. Fleming stated that 201 KAR 32:081 established a method for persons to place their license in inactive status if the person did not want to practice for a short period of time.

This administrative regulation was amended as follows: (1) Section 1 was amended to define "A license voluntarily surrendered as if revoked"; (2) Sections 1 and 2 were amended to comply with the format requirements of KRS 13A.220(4); and (3) Section 2 was amended to make a technical correction to the provisions incorporating material by reference.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Fish

301 KAR 1:015. Boats and motor restrictions. Tom Bennett, Commissioner, Roy Grimes, Wildlife Director, and Scott Porter, Assistant Attorney General, represented the Department.

In response to questions by Representative Allen, Mr. Bennett stated that: (1) while boats that did not use a motor were not required to register, those boats were covered by safety administrative regulations; and (2) for instance, a person would be subject to law enforcement if the person rowed a boat in front of a towboat.

In response to a question by Senator Roeding, Mr. Bennett stated that the size of boats permitted in each body of water varied depending on the nature of the body of water because some lakes were too small for larger boats.

This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 and 4 were amended to correct minor typographical errors.

Game

301 KAR 2:111. Deer and turkey hunting on federal areas. In response to questions by Representative Allen, Mr. Bennett stated that: (1) the penalty for violations by hunters were decided by the court system; (2) the penalty would be more severe for a person who was caught at night: (a) spotlighting a deer; (b) firing a rifle in the dark across someone's property; and (c) mistakenly killing another animal or a dog instead of a buck; and (3) the conservation officer decided whether to issue a citation, similar to a state trooper who decided whether to issue a person a speeding warning, courtesy notice, or citation.

In response to a question by Senator Roeding, Mr. Bennett stated that this administrative regulation increased deer hunting seasons in each Kentucky county.

In response to a question by Representative Allen, Mr. Bennett stated that: (1) the number of deer hunters across Kentucky was stable with a slight increase because of additional landowner opportunities; and (2) the Department: (a) estimated there were 350,000 deer hunters in Kentucky, which was an increase from previous years; and (b) had sold more junior deer licenses to young hunters in recent years.

In response to a question by Representative Bruce, Mr. Grimes stated that: (1) if a farmer was experiencing crop damage because of deer, the farmer should call the Department's toll-free telephone number to request a biologist or officer-to-survey his property; (2) the Department would have the proper official: (a) contact the landowner; and (b) conduct an assessment, including the size of the farm and the extent of the crop damage; (3) the crop tags would be distributed; and (4) each year, the Department distributed about 13,000 free crop tags to landowners.

In response to a question by Chairman Arnold, Mr. Porter stated that KRS 150.990: (1) established the range of penalties; and (2) granted the judge the discretion to: (a) fine up to a certain amount; (b) suspend the hunter's license up to a certain duration of time; or (c) forfeit specified property.

In response to questions by Representative Allen, Mr. Porter stated that: (1) evidence: (a) was held at the Game Farm; and (b) would be returned to the person upon disposition of the case; and (2) the owner was not charged a storage fee if he was found innocent.

This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 5, and 4 were amended to correct minor typographical errors.

301 KAR 2:172. Deer hunting seasons and requirements. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, and 17 were amended to correct minor typographical errors.

301 KAR 2:178. Deer hunting on wildlife management areas. This administrative regulation was amended as follows: the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 through 4 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

301 KAR 2:179. State park deer hunts. This administrative regulation was amended as follows: the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1, 4 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

301 KAR 2:221. Hunting and trapping seasons and limits. ("Exp. 8/18/00") This administrative regulation was amended as follows: the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 2 through 7 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

301 KAR 2:221. Hunting and trapping seasons and limits for fur-bearers and small game. This administrative regulation was amended as follows: the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1, 2, 9, 10, 11, and 12 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Hunting and Fishing

301 KAR 3:025. Access to wildlife management areas for mobility-impaired individuals. This administrative regulation was amended as follows: the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (2) the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 and 2 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Water Patrol

301 KAR 6:005. Boat registration fees. In response to a question by Senator Roeding, Mr. Bennett stated that: (1) this was a planned increase that had been discussed with the interim committees for the past three years; (2) the Cabinet had worked with the LRC task force on long-term funding; (3) this proposed increase: (a) had been disclosed to the appropriations and revenue committees during the interim session; (b) was projected to generate about $750,000 for the Department; (c) would affect about 160,000 boats; and (d) was a graduated increase on five classes of boats depending on size; (4) the last time the fee was increased was in 1989; (5) Cabinet staff performed calculations and found that even with the increase, the fees were still well below what they would be the consumer price index was applied; (6) the Cabinet felt that the boater was still getting a fair deal for a reasonable fee; and (7) the increase was about $5.00 per fee, except that one fee was raised by $0.00.

In response to questions by Senator Pendleton, Mr. Bennett stated that: (1) while he had not checked within the last twenty-four months, his prior research showed that the bordering states' fees were either about the same or much higher than the fees established in this administrative regulation; and (2) in his opinion, the fee increase would not cause Kentucky boaters to register their boats in neighboring states.

In response to a question by Representative Allen, Mr. Bennett stated that boat fees for boats: (1) less than 16 feet would increase from $10.00 to $15.00; (2) 16 to 26 feet would increase from $14 to $19; (3) 26 to 40 feet, which included most houseboats, would increase from $20 to $25; (4) over 40 feet would increase from $24 to $25; and (5) with inboard motors would increase from $24 to $30.

Representative Lee stated that: (1) he had served on this Subcommittee and the Budget Review Committee for eight years; (2) the Subcommittee and Committee always had cabinets requesting fee increases; (3) the Subcommittee was always told that the particular cabinet had not had a fee increase in many years; (4) someone in the cabinets should review the fee schedules over time to determine whether: (a) the agency was keeping up with costs; or (b) the fee schedules should be increased; (5) if this was done, Cabinets: (a) could approach the General Assembly during the Regular Session;
and (b) would not have to request a fee increase after the end of a session; (6) there had to be somebody who was logically responsible for looking at fees; (7) a determination should be made on: (a) one year basis; (b) two year basis; or (c) five year basis; and (6) fee increases should be part of what the Cabinet presented to the budget committees so that the 138 members of the General Assembly would decide whether to increase fees.

In response to questions by Senator Roeding, Mr. Bennett stated that: (1) the Department did disclose this proposed increase to the General Assembly; (2) the proposed increase was included in the second year of the biennium; (3) the Department built its fees on hunting and fishing; (4) in 1993, the Department projected a license increase in 5 years; (5) the Department found additional federal and state funding and went 7 years without a license increase; (6) the Department had not heard of any concerns about the fee increases for the smaller boat versus the $100,000 house boat; and (7) the Department had notified the Kentucky Marina Association for the last several summers about what the fees would be.

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 1 was amended to correct minor typographical errors. This administrative regulation was approved as amended, with Senator Roeding and Representative Allen voting no.

Cabinet For Economic Development: Department of Financial Incentives: Kentucky Enterprise Zone Program: Economic Development

306 KAR 1:010. Definitions. Phyllis Bruning, Director, Kentucky Enterprise Zone Program, and Richard Dobson, Tax Consultant, Revenue Cabinet, represented the Program.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Section 1 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Justice Cabinet: Department of Corrections: Division of Adult Institutions: Office of the Secretary

501 KAR 6:190 & E. Approval process for mental health professionals performing comprehensive sex offender presentencing evaluations. (CE expires 10/19/90) Amy Parker, Staff Attorney; Dr. Rick Purvis, Director, Division of Mental Health, Department of Corrections; and Dr. Gary Dennis, Deputy Commissioner, and Chair of the Sex Offender Risk Assessment Advisory Board, represented the Department.

This administrative regulation was amended as follows: (1) the TITLE and the NECESSITY, FUNCTION, AND CONFORMITY paragraph were amended to clarify that this administrative regulation governed the approval process for court-ordered comprehensive sex offender presentencing evaluations and treatment of sex offenders; (2) Section 1 was amended to delete the definitions of: (a) court-ordered; (b) supervised provider; and (c) supervisor; (2) Sections 2 and 3 were amended to: (a) clearly establish the required qualifications and duties of approved providers; and (b) delete provisions regarding supervised providers; (3) Section 4 was amended to: (a) clarify approval procedures; (b) expand the type of material an applicant must provide to the Department to approve or deny an application within ninety (90) days, rather than sixty (60) days, of receipt of the application; (4) Section 6 was amended to: (a) delete supervision requirements; and (b) establish practicum requirements; and (5) Sections 1 through 5 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

501 KAR 6:200 & E. Comprehensive sex offender presentencing evaluation procedure. (CE expires 10/19/90) In response to questions by Senator Roeding, Ms. Biggs stated that the amendment deleted the definition of threat to public safety because the: (1) definition limited the threat to sexual offenses; and (2) Cabinet realized the statute discussed both a: (a) risk of reoffending for sexual offenses; and (b) a broader threat to public safety.

Subcommittee staff stated that the definition also was not needed because Section 2 clarified the factors to be used to determine if there was a threat to public safety.

This administrative regulation was amended as follows: (1) Section 1 was amended to delete the definition of "threat to public safety"; (2) Section 2 was amended to clearly establish the factors to consider when determining if a sex offender posed a threat to public safety, including the sex offender's statements or indications of harm directed to another; (3) a new Section was created to clearly establish the requirements of the evaluation report; and (4) Sections 1 through 3 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: 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 needs. Kevin Noland, Acting Commissioner and General Counsel, represented the Department.

Mr. Noland stated that this administrative regulation: (1) provided more flexibility for local school districts that received state funds to help buy computers for schools; and (2) allowed the purchases to be made on an allowable basis in order to replace outdated computers.

In response to a question by Senator Roeding, Mr. Noland stated that an example of alternative technologies were computers used at the Kentucky School for the Blind because the computers: (1) were not standard; and (2) used alternative technology to allow students who had serious visual impairments to use the computers.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 were amended to reinsert existing language that was inadvertently omitted; and (3) Section 5 was amended to comply with the incorporation by reference requirements established in KRS 13A.2251.

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. Kevin Noland, Acting Commissioner and General Counsel, and Barbara Kibler represented the Department, Patricia Williams and Dr. Keith Omer of the Union County School System appeared before the Subcommittee to speak in favor of this administrative regulation. Carol Grissett and Carol Long appeared before the Subcommittee to speak against this administrative regulation.

Mr. Noland stated that: (1) this administrative regulation permitted parents unsatisfied with the special education plan for their disabled child to: (a) object; and (b) appeal any determination regarding the plan; (2) the Department had been through a year long process with input from hundreds of people, including people from local school districts; (3) this administrative regulation was supported by most parents and educators; (4) this administrative regulation was originally deferred at the suggestion of Subcommittee staff to permit the Board to consider some minor substantive changes that clarified the requirements of federal law; (5) the Kentucky Board of Education met this morning and approved the changes; (b) the proposed changes did not exceed federal requirements; (7) the Department checked with other groups interested in this administrative regulation including the: Kentucky School Boards Association; (b) Association of Special Education Directors; and (c) Local Superintendents Advisory Council; and (d) all of these groups were in agreement with the proposed amendments.

In response to a question by Senator Long, Mr. Noland stated that: (1) he was not familiar with the group that had faxed concerns to him; (2) the group had referenced $60 million of federal funds that the State had to help local school districts serve students with disabilities; (3) Kentucky had already received the money; (4) the United States Department of Education had: (a) reviewed Kentucky's plan; and (b) given conditional approval; and (5) loss of the federal money was a problem.

In response to a question by Senator Long, Mr. Noland stated that the State of Kentucky was in compliance with federal law to receive all of the money to which it was entitled.

Subcommittee staff stated that: (1) the proposed amendments
brought the Department into full compliance with federal requirements; and
(2) a requirement that parents have a right to mediation if there was
disagreement with the Board of Education was: (a) one of the
main provisions; and (b) now included in this administrative
regulation.

In response to questions by Senator Long, Mr. Noland stated that:
(1) these administrative regulations made reference to KRS Chapter
13B which was a uniform administrative hearing process; (2) those
statutes: (a) set out all hearing rights; and (b) provided for an emer-
gency hearing if necessary; (3) this administrative regulation was in
compliance with federal law; (4) if there was a conflict between KRS
Chapter 13B and federal requirements, the federal law would control;
(5) the Department was prohibited from repealing KRS Chapter 13B in
this administrative regulation; and (6) this administrative regulation
referred to applicable statutes when necessary.

Subcommittee staff stated that: (1) Mr. Noland was correct; (2) the
mediation provisions included notice of the right to attorney fees; (3)
34 CFR 300.513, which was cited in Senator Long’s fax, referred to
attorney fees that could be awarded by a federal court in a civil action;
and (4) the provision for attorney fees in 34 CFR 300.513: (a)
was not applicable to the Department; and (b) did not need to be cited in
this administrative regulation.

In response to a question by Chairman Arnold, Dr. Omer stated that:
(1) he served as Deputy Superintendent with Union County Schools; (2) he wanted to speak in favor of this administrative regula-
tion; (3) their superintendent, director of special education, teachers, and
parents had been greatly involved in the process; (4) there was a consen-
sus that this was something that needed to be done; (5) they felt very
positive about the changes; (6) he knew that those in the field
did not always necessarily agree with everything the Department did,
but felt that the Department had gone above and beyond the federal
requirements; and (7) he: (a) commended the Department on the job
they did; and (b) urged the Subcommittee to approve this adminis-
trative regulation.

Patricia Williams stated that: (1) she was: (a) from Hardinburg
County; and (b) the parent of a child with multiple disabilities; (2) her
child’s disabilities were mild; (3) she was completing her third term on
the state advisory panel for exception children, whose purpose was to
help advise the Department on matters relating to children with dis-
abilities; (4) she had been at every public hearing since 1997; (5) the
message she heard was that people wanted administrative regula-
tions: (a) quickly; and (b) that did not exceed federal law; (6) she also
served as chair of the rules, regulations, and federal report committee
of the panel; (7) the panel had been through these administrative
regulations with a fine-tooth comb more than once; (8) in order to
implement the federal law, Kentucky needed this administrative regu-
lation; (9) as a parent, she wished she could change some things to
better serve her child; (10) the law was written to educate all children
with disabilities, not just her child; (11) if there were things that
parents did not feel their children were receiving help to educate them
to as they deserve, the parents had the due process protections established
in this administrative regulation; and (12) she felt like this administ-
trative regulation was written for the good of all children in Kentucky.

In response to questions by Senator Pendleton, Ms. Williams
stated that: (1) the advisory panel held: (a) four meetings per year; (b)
two half-day meetings; and (c) a parleaur or hearing at each of
those meetings; (2) the meetings were advertised; (3) the panel trav-
eled across the state to hold the meetings; (4) the panel also con-
ducted a public hearing at the fall conference in Louisville for: (a)
parents; (b) teachers; and (c) administrators of children with disabilities;
(5) a hearing was conducted at the parent-professional conference; (6)
ocasionally the panel was invited to other conferences to conduct a
hearing or to listen to participants; (7) they had very good participa-
tion from: (a) parents; and (b) local school districts; (8) their panel was
required by IDEA to be composed of at least 50% of: (a) parents of
students with disabilities; or (b) people with disabilities; (9) currently,
more than half the panel was composed of: (a) parents of students
with disabilities; or (b) people with disabilities; (10) at their June meet-
ing the full panel unanimously voted to support these administrative
regulations as written; and (11) the few proposed amendments to 707
KAR 1:340 made it even better.

In response to questions by Representative Lee, Ms. Williams
stated that: (1) she understood: (a) the appeals rights; and (b) she had
the right to refuse if: 1. she was at an ARC meeting; and 2. the major-
ity decided her child needed self-contained placement; (2) they had to
provide her with the form to request a due process hearing; (3) the
hearing requirements were very specific in this administrative regu-
lation; (4) she understood that: (a) the school district must offer media-
tion; and (b) she did not have to accept it; (5) this administrative regu-
lation was clear: (a) regarding the requirements of the mediator; and
(b) that the mediator could not be a state or school district employee;
(6) she thought that within thirty days the department had to assign a
hearing officer; (7) there were provisions for an extension of time, but it
was very specific that it could only be issued under extenuating cir-
cumstances; and (8) she did not agree that the process was an open-
ended process.

In response to questions by Representative Lee, Subcommittee
staff stated that: (1) Ms. Williams was correct that this was not an
open-ended process; (2) there had to be a decision made within a
specified time period; (3) KRS Chapter 13B provided certain time
periods; (4) there were federal time requirements; (5) if there was a
conflict in the state and federal time provisions, the federal require-
ments would control; (6) the process would never be open-ended; (7)
some of the proposed amendments cross-referenced federal provi-
sions, to put parents on notice of those rights; (8) it was not necessary
to repeal all of the federal requirements in this administrative regu-
lation; and (9) none of the rights of the parent were lost or omitted in
these administrative regulations simply because it did not repeal the
federal regulations.

Carol Grisett stated that: (1) the federal regulations required the
state to implement policies and procedures; (2) Kentucky had only
conditional approval for the federal money; (3) 93% of these adminis-
trative regulations were probably 93% verbatim from the federal regula-
tions; (4) she did not think that the: (a) procedures for parents and children
were included intact; and (b) provisions for attorney’s fees were made
clear for parents; (5) there were a lot of conflicts between: (a) KRS
Chapter 13B; and (b) the federal regulations; (6) if parents did not
know their rights: (a) many of the procedural safeguards would not be
followed; and (b) their child would get to which he was entitled; and
(7) due process was: (a) not paperwork for teachers; and (b) a parent’s
rights to pursue their child’s right to an education.

Carol Long stated that she thought that: (1) what the Subcommit-
tee heard earlier from Ms. Williams was the testimony of someone
who was being paid by the Department; (2) the Department had con-
trol over her; and (3) the Subcommittee needed to hear from real par-
ents who were not employees.

In response to a question by Senator Long, Mr. Noland stated that:
(1) there were about 30 hearings held all over the state annually;
(2) if a parent disagreed with the school, federal law provided that
during the appeal challenging a change, there was a “stay-provi-
sion”; (3) by this provision, the child stayed in the same educational
placement until there was a final decision; (4) of the approximate 30
hearings annually, only a handful went to the next level; (5) annually,
they had probably 1 or 2 cases that wound up in court; and (6) the
Department did not include in this administrative regulation directions
for the courts, which were established in federal law, because as a
state agency, the Department could not tell the courts what to do.

In response to questions by Representative Lee, Mr. Noland
stated that: (1) this administrative regulation included provisions
that federal law required the Department to provide as standards for
local school districts in serving students with disabilities; (2) federal law
and this administrative regulation required that at the beginning and
every time there was a meeting, the parent must be notified of the
policy and procedures; (3) the current comments related to the imple-
mentation of the law at the local levels, which sometimes was not
done correctly; and (4) if the Department received a complaint, the
Department would try to correct any problems.

Ms. Grisett stated that: (1) she: (a) felt that parents were not
being given all of their procedural safeguards and rights; and (b)
wanted parents to understand their due process rights; and (2) if the
rights were not included in the booklets, parents would not know about
them.

In response to questions by Senator Roeding, Mr. Noland stated
that: (1) the federal department of education had given all of the states
a conditional approval; (2) Kentucky was not unique; (3) the federal
department of education had reviewed some of Kentucky’s adminis-
trative regulations, but not all of them; and (4) conditional approval
was: (a) not a reflection of the quality of what had been done to this
point; and (b) what was given to everyone.

In response to questions by Senator Long and Chairman Arnold, Mr. Noland stated that the Department would: (1) include a sheet that explained the parents' rights; and (2) require the school districts to acknowledge that they have complied with those provisions.

This administrative regulation was amended as follows: (1) Section 3 was amended to: (a) cross-reference applicable federal regulations; and (b) delete provisions regarding parental waiver of procedural safeguards; (2) a new Section 6 was amended to establish mediation rights, in accordance with 34 CFR 300.506; (3) a new Section 15 was created to incorporate by reference the required form, in accordance with KRS 13A.2251; and (4) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 7 through 14 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education
Personnel System for Certified and Equivalent Employees

780 KAR 3:035. Employee evaluations. Sherry Deatrick, General Counsel, 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 served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 5 was amended to clearly establish the requirements governing multiple registration; (4) Sections 2, 3, 4, and 5 were amended to: (a) correct statutory citations and cross-references to other administrative regulations; and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); and (5) a new Section 6 was created to incorporate by reference the required application form.

808 KAR 10:040. Dishonest or unethical practice defined. This administrative regulation was amended as follows: (1) the TITLE and Sections 2, 3, and 4 were amended to clarify that this administrative regulation provided examples of dishonest or unethical practice; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to move language that established substantive provisions to a new Section of the administrative regulation; and (3) Sections 2, 3, 4, and 5 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Department of Housing, Buildings and Construction: Division of Building Codes Enforcement: Kentucky Building Code

In response to questions by Senator Roeding, Ms. Walden stated that: (1) this administrative regulation: (a) increased the plan review fees by one-half cent per square foot; (b) did not increase the costs of single family residential dwellings, which were not reviewed by the Department; and (c) applied to plan review fees for buildings that were large enough to be reviewed by the Department, including residential structures that had more than three floors or 20,000 square feet; and (2) plans could be reviewed locally in Lexington, Louisville, Northern Kentucky, and other areas, rather than by the Department.

Senator Long stated that the Department needed this money to hire additional people and increase the speed at which plans were reviewed by the Department.

Ms. Walden stated that: (1) House Bill 244, enacted during the 2000 Regular Session, required the Department to increase the fees by one-half cent to raise money to: (a) train local building officials; (b) increase their competency; and (c) increase their uniform understanding of the administrative regulations; (2) this fee would generate up to $150,000 for the Department to use; and (3) the Department was actively involved in training qualified local officials to take over some of the responsibilities in local communities so that plans could be approved locally, rather than by the Department.

This administrative regulation was amended as follows: Section 1 was amended to correct typographical errors.

Plumbing
815 KAR 20:130. House sewers and storm water piping; methods of installation. This administrative regulation was amended as follows: (1) Section 12(2) was amended to change an existing reference from "the effective date of this administrative regulation" to "August 1, 1996", which was the effective date of that particular change when it was originally made; and (2) Sections 5, 8, 10, 12, 13, 14, 16, 18, 19, 23, 24, 26, and 29 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

815 KAR 20:150. Inspection and tests. 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(3)(f); (3) Sections 3, 4, 5, 6, 10, and 12 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

815 KAR 20:191. Minimum fixture requirements. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 6, 7, and 9 through 17 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).
Cabinet For Health Services: Department for Public Health: Radiology


In response to questions by Representative Bruce, Mr. Volpa stated that while the Department did not have regulatory authority over the Department of Energy facilities in Paducah, the Department: (1) was responsible for protecting the public health of citizens outside the federal property boundaries; and (2) had input into the activities at the federal plant.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; and (2) the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Section 1 were amended to comply with: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

902 KAR 100:040. General provisions for specific licenses. 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, 3 to 5, 7 to 9, and 12 to 16 were amended to: (a) clarify provisions; and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

902 KAR 100:041. Quantities of radioactive materials requiring consideration of the need for an emergency plan. 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 through 4 were amended to: (a) clarify provisions; and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

902 KAR 100:042. Decommissioning and financial surety. 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 through 16 were amended to: (a) clarify provisions; and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

Department for Medicaid Services: Division of Physical Health: Medicaid Services

907 KAR 1:102. Advanced registered nurse practitioner services. Karen Doyle, Commissioner’s Office, Dr. Louis Moore, Medicaid Medical Director, and Debbie Green, Branch Manager, Physical Health, represented the Department.

In response to questions by Representative Bruce, Ms. Doyle stated that: (1) this administrative regulation: (a) did not apply to Medicare; and (b) applied to Medicaid; and (2) the Department: (a) had several obsolete training manuals; and (b) wanted to: 1. update their policies; and 2. combine them into one administrative regulation.

In response to questions by Senator Roeding, Ms. Doyle stated that: (1) an ARNP in independent practice could bill Medicaid directly on their own; and (2) an ARNP who was a salaried nurse working in a hospital could not: (a) double dip; or (b) bill Medicaid for working at the hospital.

In response to questions by Senator Roeding, Ms. Doyle stated that this administrative regulation complied with the state law passed in 1998 that permitted ARNPs to: (1) act as independent practitioners if they were enrolled as a Medicaid provider; and (2) bill independently.

In response to questions by Representative Lee, Ms. Doyle stated that an ARNP could not perform any service outside the scope of their license.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph and Section 3(5) were amended to correct statutory citations; (2) Section 1 was amended to: (a) cross-reference the statutory definition of “advanced registered nurse practitioner”, rather than defining the term in this administrative regulation, as required by KRS 13A.222(4)(d); (b) establish definitions for: 1. emergency medical condition; 2. emergency services; 3. medically necessary; 4. medical necessity; and 5. prudent layperson standard; and (c) delete definitions for: 1. established patient; 2. locally infiltrated anesthesia; and 3. regional anesthesia, because those terms were no longer used in this administrative regulation; (3) Section 3 was amended to clarify that: (a) services furnished by an ARNP shall be medically necessary; (b) the cost of specified injectables shall be reimbursed if administered by a physician or independent practitioner's office; and (c) the cost of injectables not specified in this administrative regulation shall be reimbursed through the pharmacy program established in 907 KAR 1:019, Section 2; (4) Section 3 was amended to establish the standard for determining the existence of an emergency medical condition and the need for emergency services; and (5) Sections 1 through 4 were amended to comply with: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

907 KAR 1:104. Reimbursement for advanced registered nurse practitioner services. In response to a question by Senator Roeding, Ms. Doyle stated that: (1) the Department had a public hearing; (2) the Department had not received any comments from the nursing association; and (3) it appeared that everybody was in agreement with the rates.

In response to a question by Chairman Arnold, Dr. Moore stated that: (1) an ARNP would need to be pre-authorized only for selective services; and (2) the nurse would not need a prior authorization to treat someone.

In response to a question by Senator Roeding, Ms. Doyle stated that a list of services was already in place.

In response to questions by Chairman Arnold and Senator Roeding, Ms. Doyle stated that: (1) ARNPs already received 75% of what a physician received; and (2) the billing was within the ARNP’s scope of practice, the ARNP could provide that service but would not be paid more than 75% of what a physician would be paid.

This administrative regulation was amended as follows: (1) Section 1 was amended to: (a) cross-reference the statutory definition of "advanced registered nurse practitioner", rather than defining the term in this administrative regulation, as required by KRS 13A.222(4)(d); (2) Section 2(2) was amended to clarify that an ARNP employed in hospital-type settings shall be reimbursed directly for services provided in that setting while operating as an employee; and (3) Sections 2 and 3 were amended to comply with the drafting requirements of KRS 13A.222(4).

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Justice Cabinet, Department of Corrections: Division of Adult Institutions: Office of the Secretary

501 KAR 6:300. Kentucky State Reformatory. Tamela Biggs, Staff Attorney, represented the Department.

501 KAR 6:120. Blackburn Correctional Complex. In response to questions by Senator Roeding, Ms. Biggs stated that: (1) this administrative regulation applied only to Blackburn; (2) the Department did not regulate what the counties did in their facilities; (3) the counties promulgated their own regulations; (4) the Department assisted the jail standards commission in promulgating its administrative regulations; (5) the county jailers followed those administrative regulations; (6) the Department had its own individual policy and procedures which each institution was required to follow; and (7) each state institution promulgated procedures that were directed specifically at: (a) their institution; and (b) the type of inmate population they had.

In response to a question by Senator Roeding, Ms Biggs stated that: (1) the Department changed some of the times and dates for visitation at Blackburn to make it more accessible for the attorneys; and (2) the Department simply clarified the types of insurance that were already available to employees.

501 KAR 6:999. Conectons secured policies and procedures. Pursuant to KRS 61.815(2) and KRS 61.810(1)(k) and (k), and KRS 197.025(5), the Subcommittee went into closed session to review 501 KAR 6:999, Secured policies and procedures.

Department of Criminal Justice Training: General Training Prov

503 KAR 3:030. Training charges. Stephanie Bingham, General Counsel, Ken Schwendeman, Director, Administrative Division, and John Bizack, Commissioner, represented the Department.
VOLUME 27, NUMBER 3 – SEPTEMBER 1, 2000

In response to a question by Senator Roeding, Ms. Blingham stated that: (1) this administrative regulation related to training charges; and (2) 505 KAR 1:140 relating to psychological testing had been deferred.

In response to questions by Senator Roeding, Mr. Schwendeman stated that: (1) the Department had extended free tuition to many more agencies; (2) there were about 40 regular clients, including 27 federal agencies; (3) the Department exempted those persons who were required to be certified; (4) the people that were left were not a part of the Department's normal client base and would be charged; (5) the Department was actually decreasing its revenue by about $120,000 a year; and (6) if the FBI or Secret Service attended training, the Department thought they should pay what it actually cost the State.

In response to questions by Chairman Arnold, Mr. Schwendeman stated that: (1) there were 3,200 jailers and deputy jailers in the state; (2) the current stipend was $3,100, plus a pension contribution; (3) the average pension contribution rate was 15.7%; (4) it would be a 10 million or 11 million dollar increase per year to include Jailers in the cleft fund; (5) the revenue source for funding the cleft program was the restricted surplus on the insurance premiums on property at risk in Kentucky; (6) the revenue stream was divided with the fire fighters; (7) currently, there was a 1.5% tax on the cost of the policy and premium; (8) to increase this, the contribution rate would be 33%; (9) the surtax would have to be increased from 1.5% to 2%; and (10) on a $100.00 premium, the tax amount would be increased from $1.50 to $2.00.

Education, Arts And Humanities Cabinet: Board of Education: Department of Education: Division of Exceptional Children Services: Exceptional and Handicapped Programs


Department of Housing, Buildings and Construction: Division of Building Codes Enforcement: Plumbing

815 KAR 20:020. Parts or materials list. Judith Walden, General Counsel, represented the Department.

Office of State Fire Marshal: Electrical Inspectors


Cabinet For Health Services: Department for Public Health: Radiology


Department for Medicaid Services: Division of Physical Health: Medicaid Services

907 KAR 1:407. Repeal of 907 KAR 1:200, 907 KAR 1:210, 907 KAR 1:408, 907 KAR 1:408, and 907 KAR 1:476. Karen Doyle, Commissioner's Office, Dr. Louis Moore, Medicaid Medical Director, and Debbie Green, Branch Manager, Physical Health, represented the Department.

Cabinet For Families And Children: Department for Community Based Services: Division of Policy Development: Family Support: Child Support


The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the next meeting of the Subcommittee:

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. ("E" expires 12/28/00) Dana Mayton, Commissioner of Law, and Richard Dobson, Tax Consultant, represented the Cabinet. Written comments in opposition to this administrative regulation were submitted by Keith Landry, General Attorney, BellSouth Corporation, and Anna Winsett, Attorney, AT&T Corp.

In response to questions by Senator Roeding, Ms. Mayton stated that: (1) the subject of telephone access charges and their taxability under sales tax had been a point of contention between the industry and the cabinet for some time; (2) with the passage of the biennial budget, the cabinet felt that the General Assembly had conveyed its intent that these charges were taxable; and (3) the Cabinet felt that promulgation of an emergency administrative regulation was necessary to clearly establish the requirement of collecting and remitting the tax.

Senator Roeding stated that: (1) this was a new tax; (2) this particular tax was never collected from the time that authority was given; (3) all of a sudden the Cabinet wanted to collect the tax; and (4) he thought that the Cabinet was changing the intent of the legislation.

In response to questions by Senator Roeding, Ms. Mayton stated that: (1) the tax had been assessed against this industry for a number of years; (2) because of industry's argument that the Cabinet should not collect the tax, the Cabinet agreed to: (a) not collect the tax; and (b) give the 2000 Legislature the opportunity to clearly exempt these charges from tax; (3) a bill was not passed during the 2000 Regular Session of the General Assembly to exempt the tax; and (4) the Cabinet believed that the inclusion of the money in the biennial budget directed the Cabinet to collect the tax.

Senator Roeding stated that: (1) the Governor and the Revenue Cabinet were collecting $82 million without legislative authority; (2) he thought the Cabinet was overstepping its legislative authority; and (3) if the governor had not vetoed Senate Bill 207 this would not be a problem.

Senator Long stated that: (1) in all fairness to the Revenue Cabinet, the General Assembly passed a budget using this money; (2) included in the budget was: (a) $42 million for the second year; and (b) $39 million for this year; (3) the money was necessary to balance the budget; (4) if the tax was not collected, there would have to be some significant cuts; and (5) he did not think the Revenue Cabinet was at fault for promulgating an emergency administrative regulation.

Senator Roeding stated that: (1) he objected because he thought this emergency regulation: (a) was deficient; and (b) reflected a complete change in the Revenue Cabinet's long-standing position regarding sales tax treatment of telephone access and intercommunications services; (2) since AT&T's divestiture in 1984, the Revenue Cabinet took the position that they were not subject to Kentucky sales tax; and (3) this position was documented in: (a) Revenue Circulars published by the Revenue Cabinet; and (b) letters from the Cabinet to representatives of telecommunications companies.

In response to a question by Chairman Arnold, Ms. Mayton stated that the Cabinet would agree to the Subcommittee's request to defer consideration of this administrative regulation.

The Subcommittee approved a motion by Senator Long, seconded by Representative Bruce, to defer this administrative regulation, with: (1) Senators Long and Pendleton, and Representatives Bruce, Lee, and Arnold voting to defer this administrative regulation; and (2) Senator Roeding and Representative Allen voting not to defer this administrative regulation.

Board of Barbering

201 KAR 14:180. License fees, examination fees, renewal fees and expiration fees.

Justice Cabinet: Department of Criminal Justice Training: Kentucky Law Enforcement Council

503 KAR 1:140E. Peace officer professional standards. ("E" expires 12/28/00)

Education, Arts, And Humanities Cabinet: Kentucky Board of Education: Kentucky Department of Education: Office of Special Instructional Services: Fiscal Management

705 KAR 2:140E. Equalization of funding for locally operated area vocational centers and vocational departments.
Workforce Development Cabinet: Department for Adult and 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 2:030. Steering and advisory committees for area technology centers primarily serving secondary students.
780 KAR 2:040. Live work projects.
780 KAR 2:060. 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 7:050. Equipment inventory.
Adult Education
Cabinet For Health Services: Department for Public Health: Radiology
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. ("E" expires 11/18/00)
Department for Medicaid Services: Division of Physical Health: Medicaid Services
907 KAR 1:012E. Inpatient hospital services. ("E" expires 10/18/00)
907 KAR 1:044E. Mental health center services. ("E" expires 11/18/00)
Payment and Services
907 KAR 3:068E. Nonemergency medical transportation waiver services and payments. ("E" expires 11/18/00)
Department for Mental Health and Mental Retardation Services: Mental Health
908 KAR 2:210E. Domestic violence offender treatment certification standards. ("E" expires 10/18/00)
Institutional Care
908 KAR 3:050E. Per diem rate pursuant to the "Patient Liability Act of 1978." ("E" expires 10/18/00)
Cabinet For Families And Children: Department for Community Based Services: Division of Policy Development: Protection and Permanency: Child Welfare
922 KAR 1:300. Standards for child-caring facilities (residential and emergency shelter).
922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.
922 KAR 1:310. Standards for child-placing agencies.
922 KAR 1:390. Standards for emergency shelter child-caring facilities.

OTHER BUSINESS:

The Subcommittee adjourned at 1:15 p.m. until September 12, 2000, at 10 a.m. in Room 149 of the Capitol Annex.
CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates .............................................................................. C - 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 .................................................................................................................. C - 8

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 ........................................................................................................... C - 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

**VOLUME 26**

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>26 Ky.R. Page No.</th>
<th>Effective Date</th>
<th>Regulation Number</th>
<th>26 Ky.R. Page No.</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>301 KAR 2:221E</td>
<td>1839</td>
<td>2-2-2000</td>
<td>301 KAR 1:201</td>
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<td>401 KAR 5:072E</td>
<td>1642</td>
<td>2-14-2000</td>
<td>301 KAR 2:144</td>
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<td>1919</td>
<td>4-12-2000</td>
<td>301 KAR 2:174</td>
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<td>1793</td>
<td>3-15-2000</td>
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<td>937 KAR 1:012E</td>
<td>1925</td>
<td>3-23-2000</td>
<td>301 KAR 5:030</td>
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<td>937 KAR 1:044E</td>
<td>2231</td>
<td>5-5-2000</td>
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<td>2281</td>
<td>(See Volume 27)</td>
<td>501 KAR 6:190</td>
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</tr>
<tr>
<td>13 KAR 2:020</td>
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<td>(See Volume 27)</td>
<td>707 KAR 1:280</td>
<td></td>
<td>2127</td>
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<td></td>
<td>707 KAR 1:300</td>
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<td>707 KAR 1:310</td>
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<tr>
<td>201 KAR 27:005</td>
<td>2000</td>
<td>(See Volume 27)</td>
<td>707 KAR 1:350</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>201 KAR 27:010</td>
<td>2003</td>
<td>(See Volume 27)</td>
<td>707 KAR 1:370</td>
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<td>201 KAR 27:012</td>
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<td>(See Volume 27)</td>
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<td>(See Volume 27)</td>
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<td>(See Volume 27)</td>
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<td>201 KAR 27:015</td>
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<td>(See Volume 27)</td>
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<td>(See Volume 27)</td>
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<td>(See Volume 27)</td>
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<td>2427</td>
<td>(See Volume 27)</td>
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<td>(See Volume 27)</td>
<td>780 KAR 4:050</td>
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<tr>
<td>202 KAR 6:030</td>
<td>2108</td>
<td>(See Volume 27)</td>
<td>780 KAR 5:011</td>
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<td>2109</td>
<td>(See Volume 27)</td>
<td>780 KAR 7:010</td>
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<td>301 KAR 1:130</td>
<td>2294</td>
<td>(See Volume 27)</td>
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### LOCATOR INDEX - EFFECTIVE DATES

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*Statement of Consideration Not Filed by Deadline

**Found deficient by legislative committee

### VOLUME 27

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### LOCATOR INDEX - EFFECTIVE DATES

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<td>17:260E</td>
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<td>PL 105-332</td>
<td>705 KAR</td>
<td>4:231</td>
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</tbody>
</table>
SUBJECT INDEX

ACCOUNTANCY, STATE BOARD
Certificate of experience; 201 KAR 1:063
Firm license; 201 KAR 1:081
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 3010E

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
Kinship Care Program; 922 KAR 1:130
Private child care placements, levels of care, payment; 922 KAR 1:350E
Supportive services; 922 KAR 1:400

COLLEGES, NONPUBLIC
(See Postsecondary Education)

CORRECTIONS
Institution Policies and Procedures
Blackburn Correctional Complex; 501 KAR 8:120
Corrections policies, procedures; 501 KAR 8:020
Green River Correctional Complex; 501 KAR 6:170
Kentucky State Penitentiary; 501 KAR 6:040
Kentucky State Reformatory; 501 KAR 6:030
Secured policies and procedures; 501 KAR 6:999
Sex offender treatment; 501 KAR 6:220E

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

DISTRICT SUPPORT SERVICES (EDUCATION)
Administration
Employment of retired teachers in critical shortage areas; 702 KAR 1:160E
Facilities Management
Capital construction process; 702 KAR 4:160
School Administration and Finance
Depository bond, penal sum; 702 KAR 3:090
Document filing dates; 702 KAR 3:110

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
District Support Services
Administration; 702 KAR Chapter 1
Facilities management; 702 KAR Chapter 4
School administration and finance; 702 KAR Chapter 3
Education Professional Standards Board; 704 KAR Chapter 20
Learning Programs Development
Health and PE programs; 704 KAR Chapter 4
Instruction; 704 KAR Chapter 3
Learning Results Services
Assessment and accountability; 703 KAR Chapter 5
Special Instructional Services
Fiscal management; 705 KAR Chapter 2
Instructional programs; 706 KAR Chapter 4

EDUCATION PROFESSIONAL STANDARDS BOARD
Admission, placement, supervision in student teaching; 704 KAR 20:706E
Certificates for teachers of exceptional children-communication disorders; 704 KAR 20:500E
Director of pupil personnel and assistants, professional certificate; 704 KAR 20:540
Director of special education; 704 KAR 20:198
Emergency certification, out-of-field teaching; 704 KAR 20:120E
Endorsement for teachers of gifted education; 704 KAR 20:280E
Instructional leadership-school principal, all grades, professional certificate; 704 KAR 20:710

C - 13
SUBJECT INDEX

School superintendent certification; 704 KAR 20:420
Substitute teachers, emergency school personnel; 704 KAR 20:210E
Supervisor of instruction, grades K-12, certification; 704 KAR 20:410
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 1:380
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
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 2:281
Smaller game, fur bearer hunting on public areas; 301 KAR 2:049
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 6:005

HEALTH PLAN (STATE)
(See Public Health)

HEALTH SERVICES (CABINET)
Administrative Services
Vital statistics; 901 KAR Chapter 5
Certificate of need; 900 KAR Chapter 6
Medicaid
Medicaid services; 907 KAR Chapter 1
Mental Health, Mental Retardation Services
Institutional care; 908 KAR Chapter 3
Mental health; 908 KAR Chapter 2
Public Health
Health services and facilities; 902 KAR Chapter 20
Maternal and child health; 902 KAR Chapter 4
State Health Plan; 902 KAR Chapter 17

HEALTH SERVICES AND FACILITIES
(See Public Health)

HIGHWAYS
Mass Transportation
Human service transportation delivery; 603 KAR 7:080

HOUSING, BUILDINGS AND CONSTRUCTION
Electrical Inspectors
Certification of electrical inspectors; 815 KAR 35:015
Kentucky Building Code
1937 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
Specialty 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 17:230E
Provider agreement filing requirements; 806 KAR 17:300E
Registration, utilization review, internal appeal; 806 KAR 17:260E
Standards health benefit plan, comparison format; 806 KAR 17:180E

Health Maintenance Organizations
Agent license; 806 KAR 38:020E

Insurance Contracts
Property, casualty insurance form filings; 806 KAR 14:006E
Rate, form filing for life and health insurers; 806 KAR 14:005E

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 policyholder; 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; 603 KAR Chapter 25
LEARNING PROGRAMS DEVELOPMENT (EDUCATION)
Health and PE Programs
   School health services; 704 KAR 4:020E
Instruction
   Teachers' professional growth fund; 704 KAR 3:490E

LEARNING RESULTS SERVICES (EDUCATION)
Assessment and Accountability
   School, district report cards, requirements; 703 KAR 5:140

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
   Home, community based waiver services; 907 KAR 1:170E
   Inpatient hospital services; 907 KAR 1:912
   Inpatient hospital services, payment; 907 KAR 1:913E
   Medicaid service category expenditure minimum; 907 KAR 1:790E
   Patient access and care system (KenPAC); 907 KAR 1:920E
   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; 907 KAR 1:145E;
   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
   Impact Plus services; coverage, payments; 907 KAR 3:303E
   Nonemergency medical transportation waiver services, payments; 907 KAR 3:036

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 9:021E

MENTAL HEALTH, MENTAL RETARDATION SERVICES
Institutional Care
   Per diem rate pursuant to the "Patient Liability Act of 1978"; 908 KAR 3:050E
Mental Health
   Domestic violence offender treatment certification standards; 908 KAR 2:210

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Environmental Protection
   Air quality; 401 KAR Chapters 50, 51, 52

NURSING, BOARD OF
Advanced registered nurse practitioners scope, standards of practice; 201 KAR 20:057
Advanced registered nurse practitioner registration, program requirements, recognition of a national certifying organization; 201 KAR 20:058
Alternative program; 201 KAR 20:450
Contact hours, recordkeeping, reporting requirements, renewal of licensure; 201 KAR 20:215
Fees for applications, services; 201 KAR 20:240
Inactive nurse licensure status; 201 KAR 20:095
License reinstatement; 201 KAR 20:225
Licensure by endorsement; 201 KAR 20:110
Licensure by examination; 201 KAR 20:070
Nursing continuing education provider approval; 201 KAR 20:220
Prelicensure programs, organization, administration; 201 KAR 20:260

OCCUPATIONS AND PROFESSIONS
Accountancy; 201 KAR Chapter 1
Medical licensure; 201 KAR Chapter 9
Nursing; 201 KAR Chapter 20
Pharmacy; 201 KAR Chapter 2
Social work; 201 KAR Chapter 23

PEACE OFFICERS
   (See Criminal Justice Training)

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
Nonpublic Colleges
   Campus security; 13 KAR 1:030E
Public Educational Institutions
   Campus security; 13 KAR 2:100E
   Kentucky Educational Excellence Scholarship; 13 KAR 2:090

PROSECUTORS ADVISORY COUNCIL
   (See Attorney General)

PUBLIC EDUCATIONAL INSTITUTIONS
   (See Postsecondary Education)

PUBLIC HEALTH
Health Services and Facilities
   License procedures, fee schedule; 902 KAR 20:008E
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
      Release of public data sets for health care discharge data; 902 KAR 17:050

PUBLIC PROTECTION AND REGULATION CABINET
Financial Institutions
   Administration; 808 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; 806 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
SUBJECT INDEX

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 2:140
Repeal of 705 KAR 2:120; 705 KAR 2:121
Instructional Programs
Cooperative program standards; 705 KAR 4:041
General program standards for secondary career and technical
education programs; 705 KAR 4:231
Repeal of 705 KAR 4:051; 705 KAR 4:052

TAXATION
Sales and Use Tax
Miscellaneous Retail Transactions
Telephonic and telegraphic communications and services;
103 KAR 25:140E

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

TRANSPORTATION
Highways
Mass transportation; 603 KAR Chapter 7

VITAL STATISTICS
Fees for searches, certified copies of certificates and records;
901 KAR 5:050E

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