

# ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION  
Frankfort, Kentucky

VOLUME 30, NUMBER 8  
SUNDAY, FEBRUARY 1, 2004

ARRS - FEBRUARY 2004 TENTATIVE AGENDA .....	1901
REGULATION REVIEW PROCEDURE .....	1903

#### EMERGENCIES: None

#### AS AMENDED:

Revenue Cabinet .....	1904
Board of Optometric Examiners .....	1905
Board of Dentistry .....	1905
Board of Hairdressers and Cosmetologists .....	1905
Board of Professional Engineers and Land Surveyors .....	1925
Board of Nursing .....	1926
Board of Occupational Therapy .....	1927
Department of Insurance .....	1928
Cabinet for Health Services .....	1929

#### AMENDED AFTER COMMENTS:

EEPC, Division of Waste Management .....	1958
EEPC, Division of Mines and Minerals .....	1965
Cabinet for Health and Family Services .....	1970

#### PROPOSED AMENDMENTS RECEIVED THROUGH NOON,

##### JANUARY 15, 2004:

Board of Nursing .....	1985
Cabinet for Health and Family Services .....	1987

#### NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, JANUARY 15, 2004:

Cabinet for Health and Family Services .....	1990
--	------

JANUARY 13, 2004 MINUTES OF THE ARRS .....	1992
OTHER COMMITTEE REPORTS .....	1997

#### CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates .....	H - 2
KRS Index .....	H - 14
Subject Index .....	H - 24

#### MEETING NOTICE

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet February 10, 2004 at 9:30 a.m. in Room 125 of the Capitol Annex, Frankfort, Kentucky. See tentative agenda on pages 1901-1902 of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2003 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

**HOW TO CITE:** Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Volume number and Page number. Example: Volume 30, Kentucky Register, page 318 (short form: 30 Ky.R. 318).

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

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

#### **ADMINISTRATIVE REGISTER OF KENTUCKY**

(ISSN 0096-1493)

© 2003 Legislative Research Commission, All Rights Reserved

The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, 700 Capitol Avenue, Room 300, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$48 (plus 6% Kentucky sales tax) per year for 12 issues, beginning in July and ending with the June issue of the subsequent year. Periodical postage paid at Frankfort, Kentucky.

POSTMASTER: Send address changes to Administrative Register of Kentucky, 700 Capitol Avenue, Room 64, State Capitol, Frankfort, Kentucky 40601.

#### **KENTUCKY LEGISLATIVE RESEARCH COMMISSION**

##### **Chairmen**

Senator David L. Williams  
Senate President

Representative Jody Richards  
House Speaker

##### **Senate and House Members**

Senator Richard L. Roeding  
President Pro Tem

Representative Larry Clark  
Speaker Pro Tem

Senator Dan Kelly  
Majority Floor Leader

Representative Rocky Adkins  
Majority Floor Leader

Senator Ed Worley  
Minority Floor Leader

Representative Jeffrey Hoover  
Minority Floor Leader

Senator Charlie Borders  
Majority Caucus Chairman

Representative Jim Callahan  
Majority Caucus Chairman

Senator Johnny Ray Turner  
Minority Caucus Chairman

Representative Bob DeWeese  
Minority Caucus Chairman

Senator Elizabeth Tori  
Majority Whip

Representative Joe Barrows  
Majority Whip

Senator Bob Jackson  
Minority Whip

Representative Ken Upchurch  
Minority Whip

Robert Sherman, Director  
Frank Kemper, Printing and Publications Officer

#### **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

##### **Members**

Senator Damon Thayer, Co-Chair  
Representative Tanya Pullin, Co-Chair  
Senator Richard L. "Dick" Roeding  
Senator Joey Pendleton  
Senator Gary Tapp  
Representative Jimmie Lee  
Representative Jim Bruce  
Representative Jon David Reinhardt

##### **Staff**

Donna Kemper  
Dave Nicholas  
Donna Little  
Sarah Amburgey  
Karen Howard  
Laura Milam  
Emily Caudill  
Jenifer Harrison  
Ellen Steinberg

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
TENTATIVE AGENDA - February 10, 2004, at 9:30 a.m., Room 125, Capitol Annex

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

KHEAA Grant Programs

- 11 KAR 5:034. CAP grant student eligibility. (Deferred from January)
- 11 KAR 5:130. Student application. (Deferred from January)

Teacher Scholarship Loan Program

- 11 KAR 8:030. Teacher scholarships. (Deferred from January)

Early Childhood Development Scholarship Program

- 11 KAR 16:010. Early Childhood Development Scholarship Program applicant selection process. (Deferred from January)

Robert C. Byrd Honors Scholarship Program

- 11 KAR 18:010. Robert C. Byrd Honors Scholarship Program. (Deferred from January)

DEPARTMENT OF TREASURY

State Treasury

- 20 KAR 1:040. Unclaimed properties; claims. (Deferred from January)
- 20 KAR 1:080. Reports to be filed by holders of unclaimed property. (Deferred from January)
- 20 KAR 1:090. Accounts for unclaimed property that was held in an interest-bearing demand, savings or time deposit. (Deferred from January)
- 20 KAR 1:100. Multiple claims on the Unclaimed Property Fund. (Deferred from January)

STATE BOARD OF ELECTIONS

Help America Vote Act 2002

- 31 KAR 6:010 & E. State-based administrative complaint procedure. ("E" expires 6/18/03)
- 31 KAR 6:020 & E. Provisional voting. ("E" expires 6/18/03)

TEACHER'S RETIREMENT SYSTEM

General Rules

- 102 KAR 1:035. Employment by retired members.
- 102 KAR 1:150. Optional benefits.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
Department for Environmental Protection

Water Quality

- 401 KAR 5:002. Definitions for 401 KAR Chapter 5. (Not Amended After Comments) (Deferred from January)
- 401 KAR 5:005. Permits to construct, modify, or operate a facility. (Amended After Comments) (Deferred from January)
- 401 KAR 5:026. Designation of uses of surface waters. (Amended After Comments) (Deferred from January)
- 401 KAR 5:029. General provisions. (Not Amended After Comments) (Deferred from January)
- 401 KAR 5:030. Antidegradation policy implementation methodology. (Amended After Comments) (Deferred from January)
- 401 KAR 5:031. Surface water standards. (Amended After Comments) (Deferred from January)

Solid Waste Facilities

- 401 KAR 47:030. Environmental performance standards. (Written Comments Received)

General Standards of Performance

- 401 KAR 63:005. Open burning. (Hearing/Written Comments Received)

Environmental Protection

- 401 KAR 100:030. Remediation requirements. (Hearing/Written Comments Received)

Department for Surface Mining Reclamation and Enforcement

General Provisions

- 405 KAR 7:001. Definitions for 405 KAR Chapter 7. (Not Amended After Comment) (Deferred from December)

Permits

- 405 KAR 8:001. Definitions for 405 KAR Chapter 8. (Not Amended After Comment) (Deferred from December)

Bond and Insurance Requirements

- 405 KAR 10:001. Definitions for 405 KAR Chapter 10. (Not Amended After Comment) (Deferred from December)

Inspection and Enforcement

- 405 KAR 12:001. Definitions for 405 KAR Chapter 12. (Not Amended After Comment) (Deferred from December)

Performance Standards for Surface Mining Activities

- 405 KAR 16:001. Definitions for 405 KAR Chapter 16. (Not Amended After Comment) (Deferred from December)

Performance Standards for Underground Mining Activities

- 405 KAR 18:001. Definitions for 405 KAR Chapter 18. (Not Amended After Comment) (Deferred from December)

Special Performance Standards

- 405 KAR 20:001. Definitions for 405 KAR Chapter 20. (Not Amended After Comment) (Deferred from December)

Areas Unsuitable for Mining

- 405 KAR 24:001. Definitions for 405 KAR Chapter 24. (Not Amended After Comment) (Deferred from December)

JUSTICE CABINET  
Department of Juvenile Justice

Child Welfare

- 505 KAR 1:110. Department of Juvenile Justice Policies and Procedures Manual: program services.
- 505 KAR 1:130. Department of Juvenile Justice Policies and Procedures Manual: juvenile services in community.

## **VOLUME 30, NUMBER 8 – FEBRUARY 1, 2004**

505 KAR 1:140. Department of Juvenile Justice Policies and Procedures Manual: detention services.

### **TRANSPORTATION CABINET Department of Vehicle Regulation**

#### **Division of Motor Carriers**

601 KAR 1:005. Safety administrative regulation.

601 KAR 1:018. Special overweight or overdimensional permits. (Not Amended After Comments) (Deferred from January)

#### **Motor Vehicle Tax**

601 KAR 9:085. Procedures for becoming a certified motor vehicle inspector. (Deferred from November)

601 KAR 9:135. Apportioned registration. (Deferred from January)

#### **Commercial Driver's License**

601 KAR 11:040. Medical waivers for intrastate operations of commercial motor vehicles.

601 KAR 11:061. Repeal of 601 KAR 11:060.

#### **Driver's License**

601 KAR 12:031. Repeal of 601 KAR 12:030.

### **Department of Highways**

#### **Traffic**

603 KAR 5:066. Weight (mass) limits for trucks. (Deferred from January)

603 KAR 5:070. Motor vehicle dimension limits. (Deferred from January)

### **Motor Vehicle Commission**

#### **Commission**

605 KAR 1:040. Temporary off-site sale or display event.

### **PUBLIC PROTECTION AND REGULATION CABINET Department of Mines and Minerals**

#### **Division of Oil and Gas**

805 KAR 1:190. Gathering lines. (Hearing/Written Comments Received)

### **Department of Financial Institutions**

#### **Mortgage Loan Companies and Mortgage Loan Brokers**

808 KAR 12:002. Definitions for 808 KAR Chapter 12.

808 KAR 12:065. Disclosure for lender/broker making less than five (5) loans per year.

808 KAR 12:075. Requirements of mortgage broker residence office.

808 KAR 12:085. Registration of mortgage loan officer/broker.

808 KAR 12:095. Continuing education requirements.

### **Department of Housing Buildings and Construction**

#### **Electrical Inspectors**

815 KAR 35:040. Licensing of electrical contractors, electricians, and master electricians. ("E" expired 1/16/04) (Deferred from August)

### **Department of Charitable Gaming**

#### **Charitable Gaming**

820 KAR 1:001. Definitions for 820 KAR Chapter 1. (Written Comments Received)

820 KAR 1:040. Bingo standards. (Written Comments Received)

### **CABINET FOR HEALTH SERVICES Department for Medicaid Services**

#### **Medicaid Services**

907 KAR 1:013 & E. Payments for hospital inpatient services. ("E" expires 6/18/03)

907 KAR 1:035. Payments for early and periodic screening, diagnosis, and treatment services and early periodic screening, diagnosis, and treatment special services.

907 KAR 1:065 & E. Payments for price-based nursing facility services. (Hearing/Written Comments Received)

#### **Payments and Services**

907 KAR 3:090 & E. Acquired brain injury services. ("E" expires 4/19/04) (Hearing/Written Comments Received)

907 KAR 3:170 & E. Telehealth services and reimbursement. ("E" expires 6/18/03)

### **Commission for Children with Special Health Care Needs**

#### **Kentucky Early Intervention System**

911 KAR 2:120. Kentucky Early Intervention Program evaluation and eligibility.

911 KAR 2:130. Kentucky Early Intervention Program assessment and service planning

### **CABINET FOR FAMILIES AND CHILDREN Department for Community Based Services Family Support**

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

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability.

### **Protection and Permanency**

#### **Child Welfare**

922 KAR 1:050. Approval of adoption assistance. (Written Comments Received)

922 KAR 1:310. Standards for child-placing agencies. (Written Comments Received)

922 KAR 1:320. Services appeals. (Deferred from January)

922 KAR 1:330. Child protective services. (Deferred from January)

922 KAR 1:350. Family preparation. (Written Comments Received)

922 KAR 1:480. Appeal of child abuse and neglect investigative findings. (Deferred from January)



**VOLUME 30, NUMBER 8 – FEBRUARY 1, 2004**  
**ADMINISTRATIVE REGULATION REVIEW PROCEDURE**  
**(See KRS Chapter 13A for specific provisions)**

**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 and Public Comment Period**

The administrative body shall schedule a public hearing on proposed administrative regulations which shall not be held before the 21st day or later than the last workday of the month of publication. Written comments shall also be accepted for a 30 day period following publication.

The administrative regulation shall include: place, time, and date of hearing; the manner in which persons submit notification to attend the hearing and written comments; that notification shall be sent no later than 5 workdays prior to the hearing date; the deadline for submitting written comments; and the name, position, address, and telephone and fax numbers of the person to whom notification and written comments shall be sent.

The administrative body shall notify the Compiler, by phone and letter, if the hearing is cancelled and no written comments are received. If the hearing is held or written comments are received, the administrative body shall file a statement of consideration with the Compiler within 15 days following the last day of the comment period.

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**

After the public hearing and public comment period processes are completed, 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 30 days after being referred by LRC, whichever occurs first.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY  
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulations Review Subcommittee  
IJC = Interim Joint Committee

REVENUE CABINET  
Department of Law  
Division of Tax Policy  
(As Amended at ARRS, January 13, 2004)

103 KAR 26:120. Advertising agencies.

RELATES TO: KRS 139.050, 139.100, 139.110, 139.120, 139.140, 139.200, 139.260, 139.270, 139.280, 139.310, 139.330  
STATUTORY AUTHORITY: KRS ~~[13A-100.]~~ 131.130, 139.710  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130 and 139.710 authorize the Revenue Cabinet to promulgate administrative regulations for the assessment, collection, refunding, administration, and enforcement of the Kentucky tax laws. This administrative regulation establishes requirements and guidelines for the application of sales and use tax to purchases and sales of tangible personal property by advertising agencies.

Section 1. Definitions. (1) "Advertising agency" means a business engaged primarily in the professional service of developing strategy, concept, and design for the placement of advertising on radio or television stations, or in newspapers, magazines, or other media.

(2) "Advertising services" means all advertising agency activities involved in the conceptualization, development, production, and refinement of a master advertisement prior to its reproduction by the advertising agency or a third party including creative concept development, design, layout, consultation services, research, script and copy writing, art preparation, public relations, and account management services.

(3) "Master advertisement" means the original advertising material created by the advertising agency for reproduction in tangible form for the purpose of display or other advertising uses, such as ~~[Examples include]~~ master commercials, camera ready art, proofs, and corporate logos.

Section 2. Advertising Agencies as Consumers in Creation of Master Advertisement. (1) An advertising agency shall be [is] the consumer of all the tangible personal property used in the performance of its advertising services to produce a master advertisement regardless of whether the property the agency purchases is acquired in the name or account of the advertising agency or its client. The tax shall apply to the advertising agency's purchase of:

(a) All tangible personal property for use in the performance of its advertising services, including the purchase or rental of stock photos and movie footage delivered as tangible personal property;

(b) Any materials that become a component of the master advertisement; and

(c) Any tangible personal property that is incidentally provided to the client as part of the advertising services.

(2) An advertising agency shall [may] not claim that its purchase of tangible personal property is exempt from sales and use tax because the property is to be used in fulfilling a contract with:

(a) The federal government, state government, or political subdivision thereof; ~~[;]~~

(b) Any department, agency, or instrumentality of the federal government, state government or political subdivision thereof; or

(c) A religious, educational, or charitable institution exempt from tax under KRS 139.495.

(3) The performance of advertising services shall [does] not constitute manufacturing or processing production of tangible personal property for sale. Therefore, an advertising agency shall not claim that its purchase of tangible personal property used in the performance of its advertising services is exempt from sales and use tax under the:

(a) Raw material, industrial tool, and industrial supply exemp-

tion as provided in KRS 139.470(11); or

(b) The machinery for new and expanded industry exemption as provided in KRS 139.480(10).

(4) If [When] acting in the capacity of a consumer, an advertising agency shall not bill its client for tax on charges made for advertising services.

Section 3. Advertising Agencies as Retailers After Creation of Master Advertisement. (1) An advertising agency shall be [is] a retailer of tangible personal property the advertising agency sells to its clients or to others on behalf of its clients regardless of whether the sale is at a marked-up price. This provision shall include [includes] property reproduced from a master advertisement whether the advertising agency or a third party actually reproduces the materials. This provision shall [does] not include property described in Section 2 of this administrative regulation that the advertising agency uses in creating a master advertisement.

(2) An advertising agency engaged in business as a retailer shall:

(a) Complete a "Kentucky Tax Registration Application", (October 2002) Revenue Form 10A100, to register with the Revenue Cabinet for a retail sales and use tax permit; and

(b) Report and pay the applicable tax derived from gross receipts utilizing Revenue Form 51A102, "Sales and Use Tax Return", (July 2003).

(3) Taxable receipts from an advertising agency's retail sale of tangible personal property shall include all charges for services that are a part of the sale of tangible personal property including charges for:

(a) Inbound freight;

(b) Production supervision; or

(c) Print management that directly relate to the sale of particular tangible personal property.

(4) Gross receipts subject to sales tax shall not include periodic print management fees or other retainer fees not related to the sale of particular tangible property and paid whether or not there is a transfer of tangible property in a given fee period.

(5) An advertising agency may purchase tangible personal property it sells to or for its clients as a sale for resale without payment of the tax if the advertising agency provides to its suppliers a properly completed:

(a) Kentucky "Resale Certificate" (September 1990), (Revenue Form 51A105);

(b) Multistate Tax Commission (Uniform Sales and Use Tax Certificate Multijurisdiction); or

(c) Other documentation containing the information required by KRS 139.280.

Section 4. Joint Activities by Advertising Agencies. (1) If [When] an advertising agency contracts with a client to provide both advertising services and the sale of tangible personal property, receipts subject to tax shall be determined by the following guidelines provided the charges for the advertising services are clearly delineated from the charges for the tangible personal property on the customer's invoice.

(a) Any transfer of tangible personal property for a consideration, other than the master advertisement and the items described in Section 2 of this administrative regulation used in the creation of the master advertisement, to a client or a third party on behalf of a client shall be considered a retail sale of tangible personal property subject to sales tax.

(b) Receipts from agency fees, service charges, or commissions exclusively for advertising services shall not be subject to sales tax, including charges for placing advertisements in print, broadcast, or other media.

(c) The amount separately stated for the tangible personal

property shall not be less than the fair market value of similar property sold in a similar transaction not involving the provision of advertising services.

(2) If [When] an advertising agency contracts with a client to provide both advertising services and the sale of tangible personal property and does not clearly delineate the charges on the customer's invoice, the total billing amount is subject to tax.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Revenue Form 10A100 "Kentucky Tax Registration Application For Withholding, Corporation, Sales and Use Taxes, and Motor Vehicle Tire Fee", October 2002;

(b) Revenue Form 51A102 "Sales and Use Tax Return", July 2003;

(c) Revenue Form 51A105 "Resale Certificate", September 1990; and

(d) "Uniform Sales and Use Tax Certificate - Multijurisdictional", July 2000.

(2) These material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, or at any Kentucky Revenue Cabinet Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.

DANA BYNUM MAYTON, Secretary

APPROVED BY AGENCY: November 12, 2003

FILED WITH LRC: November 14, 2003 at 10 a.m.

CONTACT PERSON: Edward A. Mattingly, Tax Consultant, Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, phone (502) 564-6843, fax (502) 564-9565.

**KENTUCKY BOARD OF OPTOMETRIC EXAMINERS**  
(As Amended at ARRS, January 13, 2004)

**201 KAR 5:100. Expungement.**

RELATES TO: KRS 320.310(3)

STATUTORY AUTHORITY: KRS 320.310(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.310(3) authorizes the board to promulgate an administrative regulation to establish minor violations that are subject to expungement. This administrative regulation establishes the violations considered minor and the criteria and procedure for expungement.

Section 1. Definition. "Expungement" means that:

(1) The affected records shall be sealed;

(2) The proceedings to which they refer shall be deemed not to have occurred; and

(3) The affected party may properly represent that no record exists regarding the matter expunged.

Section 2. Minor Violations and Expungement Procedure. (1) The following violations shall ~~are to~~ be considered minor in nature:

(a) Failure to timely renew a license;

(b) Failure to timely obtain continuing education; or

(c) Failure to timely obtain required HIV/AIDS continuing education.

(2) ~~[An optometrist seeking expungement of a record of a disciplinary action resulting from a violation designated in subsection (1) of this section shall, in accordance with KRS 320.310(3):]~~

(a) Not have been the subject of a subsequent violation of the same nature for a period of three (3) years after the date of completion of disciplinary sanctions imposed for the violation sought to be expunged; and

(b) Submit a written request to the board.

~~[(3)]~~ The board shall consider each request and shall, if the requirements established in KRS 320.310(3) and this administrative regulation ~~conditions of subsection (2) of this section~~ are satisfied, expunge the record of the subject disciplinary order.

JERALD COMBS, President

APPROVED BY AGENCY: November 1, 2003

FILED WITH LRC: November 13, 2003 at 2 p.m.

CONTACT PERSON: Connie Calvert, Executive Director, Kentucky Board of Optometric Examiners, 301 E Main Street, Suite 850, Lexington, Kentucky 40507, phone (859) 246-2744, fax (859) 246-2746.

**KENTUCKY BOARD OF DENTISTRY**  
(As Amended at ARRS, January 13, 2004)

**201 KAR 8:490. Expungement of records.**

RELATES TO: KRS 313.600(2)

STATUTORY AUTHORITY: KRS 313.330(4), 313.600(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.600 authorizes the board to promulgate administrative regulations regarding the expungement of records of a dentist and a dental hygienist. This administrative regulation establishes the violations that may be expunged and the criteria and procedure for expungement.

Section 1. Definition. "Expungement" means that:

(1) The affected records shall be sealed;

(2) The proceedings to which they refer shall be deemed not to have occurred; and

(3) The affected party may properly represent that no record exists regarding the matter expunged.

Section 2. Minor Violations and Expungement Procedures. (1) The following violations are to be considered minor in nature:

(a) Failure to abide by the advertising laws found in 201 KAR 8:006;

(b) Failure to timely obtain required continuing education; and

(c) Failure to timely obtain required HIV/AIDS continuing education.

(2) A dentist or dental hygienist seeking expungement of a record or a disciplinary action resulting from a violation designated in subsection (1) of this section shall, in accordance with KRS 313.600(1):

(a) Not have been the subject of a subsequent violation of the same nature for a period of three (3) years after the date of completion of disciplinary sanctions imposed for the violation sought to be expunged; and

~~(b) [(a)]~~ Submit a written request to the board.

(3) The board shall consider each request and shall, if the conditions of subsection (2) of this section are satisfied, expunge every record relating to the subject disciplinary order.

MATTHEW GANDOLFO, President

APPROVED BY AGENCY: July 12, 2003

FILED WITH LRC: July 15, 2003 at 9 a.m.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

**201 KAR 12:020. Examination.**

RELATES TO: KRS 317A.010, 317A.020, 317A.050, 317A.100, ~~317B.025[(4)(e)]~~

STATUTORY AUTHORITY: KRS 317A.050, 317A.060 ~~317B.020(3)(ii)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 require the board to promulgate administrative regulations regarding examinations of applicants for licenses in cosmetology, nail technology, and esthetics. This administrative regulation establishes the procedure and qualifications for these examinations. [KRS 317A.050 requires all students [of cosmetology] to register with the board when enrolling in a school of cosmetology.]

Section 1. (1) A ~~[No]~~ graduate of any school of cosmetology

VOLUME 30, NUMBER 8 – FEBRUARY 1, 2004

licensed by this board shall not be accepted for apprentice examination who has not registered with the board at least ten (10) months and two (2) weeks prior to said examination.

(2) A [No] graduate nail technician [manicurist] shall not be accepted for examination who has not registered with the board at least seventy-five (75) [thirty-seven and one-half (37 1/2)] days prior to examination.

(3) A [No] graduate esthetician shall not be accepted for examination who has not registered with the board at least six (6) months and two (2) weeks prior to examination.

Section 2. An applicant [Applicants] for licensure who [that] completed hours in another state[,] shall submit a certification from the state board of the state in which the hours were obtained.

Section 3. A [No] student, [or] apprentice cosmetologist, nail technician, or esthetician shall not be permitted to take the board's examination whose application completed in full[,] has not reached the office of the board at least ten (10) working days prior to the beginning date of examination.

Section 4. (1). The board's examination shall be given only to an applicant [applicants] [students] who has [have] been notified to appear for the examination and who is [are] wearing a clean, washable uniform, [and who have with them a pencil for their written examination] and who has with him or her instruments and all supplies needed to be used [by them] in the giving of practical examination.

(2) [(a)] A uniform shall be considered a lab jacket or smock over clothing.

(3) [(b)] Bibs or aprons shall [will] not be allowed.

Section 5. The examination shall consist of both a written test and practical demonstration in subjects from the curriculum as specified. The practical demonstration shall be performed on a live female model provided by the applicant.

Section 6. (1) An average grade of seventy (70) percent in theory and practical shall be required as a passing grade on the board's apprentice cosmetologist nail technician and esthetician examination. A [No] license shall not be issued to an applicant, not including instructors, with a grade below seventy (70) percent in any one subject. An [and] applicant shall submit to reexamination on subjects not successfully completed.

(2) An instructor's license shall not be issued to any applicant receiving a grade below eighty (80) percent on [of] written and eighty-five (85) percent on practical. An applicant shall submit to reexamination on subjects not successfully completed.

Section 7. A student who practices cosmetology, nail technology or esthetics in a beauty salon prior to the [apprentice] examination given by the board may [shall] be considered ineligible to take the examination pending hearing before the board.

Section 8. A bulletin board shall be provided by a school and the examination schedule shall be conspicuously displayed thereon at all times.

Section 9. An applicant [Applicants] successfully completing the state board examinations shall buy his or her license [their licenses] within thirty (30) days following the [their] examination. Failure to purchase the [said] license shall require the paying of the appropriate restoration fee as required by KRS 317A.050(11) and appropriate restoration fee as required by 201 KAR 12:220(4) for an esthetics license.

Section 10. The fee accompanying an application shall not be refunded unless the application is rejected by the board.

Section 11. Any applicant who fails the state board examinations may be rescheduled for examination during any examination period provided all qualifications are met.

~~[Section 12. Any applicant who fails any phase of the state~~

~~board examination and waits over ninety (90) days to retake the examination shall file another application.]~~

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

BOARD OF HAIRDRESSERS AND COSMETOLOGISTS  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:025. Additional study after failing examination.

RELATES TO: KRS 317A.050, 317B.025(1)(e)

STATUTORY AUTHORITY: KRS 317A.050, 317.060, 317B.020 [(3)(a)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 require the board to promulgate administrative regulations regarding examinations of applicants for licenses in cosmetology, nail technology and esthetics. This administrative regulation establishes the procedure taken if an examination is failed. [Applicants failing the state board examination may require additional study in those areas failed.]

Section 1. An applicant for apprentice cosmetologist, nail technician or esthetician [cosmetologist's] license who does not pass the [apprentice] examination conducted by the board may complete a further course of study in a licensed school of cosmetology on the subject or subjects failed. A reenrollment application shall be filed in the office of the board and a certification of additional hours to be completed shall accompany application for reenrollment.

Section 2. An applicant for instructor's license who does not pass the instructor's examination conducted by the board may complete a further course of study in a licensed school of cosmetology on the subject or subjects failed. A reenrollment application shall be filed in the office of the board and a certification of additional hours to be completed shall accompany application for reenrollment.

Section 3. Any [An] applicant failing the examination required by the board shall complete a new examination application and shall pay the appropriate examination fee. [apprentice cosmetologist, regular cosmetologist, instructor, or manicurist examination, may retake the examination three (3) times within a twelve (12) month period without paying an additional fee. The appropriate statutory fee shall be required for every three (3) failures.]

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

BOARD OF HAIRDRESSERS AND COSMETOLOGISTS  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:030. License required.

RELATES TO: KRS ~~[317A.040,]~~ 317A.020, 317A.050, 317B.025 [317A.060, 317B.025]

STATUTORY AUTHORITY: KRS 317A.060, 317B.020 [317A.050, 317B.020(1), (3)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 require the board to promulgate administrative regulations governing cosmetology, nail technol-

ogy, and esthetics. This administrative regulation establishes special licensing requirements. [KRS 317B, 317A.010 and 317A.020 require anyone practicing cosmetology, nail technology or esthetics to be licensed.]

Section 1. ~~An [All persons [Every person] licensed by this board, with the exception of a licensed nail technician [manicurist] or cosmetologist exclusively practicing nail technology [manicuring] in a licensed barber shop, shall practice in an establishment licensed by this board.~~

Section 2. ~~No] establishment or licensee of this board shall not employ an unlicensed person to perform or practice cosmetology, nail technology or esthetics.~~

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:031. Replacement of license - duplicate license.

RELATES TO: KRS 317A.050, 317B.025

STATUTORY AUTHORITY: KRS 317A.060, 317B.020(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 authorize the board to promulgate administrative regulations regarding licensure for cosmetology, nail technology and esthetics. KRS 317B.020(3)(l) authorizes the board to promulgate administrative regulations to establish fees required pursuant to KRS 317B.010 to 317B.060. This administrative regulation establishes the procedure for issuance of a duplicate license and establishes the fee for issuance of a duplicate esthetician license. [Licenses shall be posted to aid the board members and salon inspectors in conducting their inspections.]

Section 1. If a license is lost, destroyed or stolen after issuance, a duplicate license shall be issued to the licensee. The licensee shall file a statement verifying the loss of the license and each duplicate license shall be indicated "duplicate."

Section 2. The fee for a duplicate esthetician license shall be the same as the initial license fee as required by 201 KAR 12:220(1).

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:045. Apprentice, nail technician, esthetician, [manicurist] and instructor's licensing.

RELATES TO: KRS 317A.050, 317B.025

STATUTORY AUTHORITY: KRS 317A.060 [050], 317B.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 authorize the board to promulgate administrative regulations regarding licenses in cosmetology,

nail technology and esthetics. This administrative regulation establishes procedures for examination and license applications. [Applicants for apprentice, manicurist and instructor examination shall complete a statutory number of hours prior to examination and purchase a license on successful completion of examination.]

Section 1. An application for any examination established under KRS Chapter 317A and 317B [All applications for apprentice, nail technician, esthetician [manicurist], and instructor examinations] shall be accompanied by a notarized certification of hours from the school the student [students] attended.

Section 2. (1) An apprentice cosmetologist shall apply for a [their] [his] regular license no sooner than six (6) months and no longer than eighteen (18) months after passing the apprentice examination. Any extension of this period of time shall [te] be granted at the discretion of the board.

(2) [A] Six (6) month apprenticeship consists of working in a licensed beauty salon for an average of twenty (20) hours per week for six (6) months.

Section 3. An apprentice cosmetology instructor [or esthetic instructor] shall apply for an [their] [his] instructor license no sooner than six (6) months and no longer than twenty-four (24) months after receiving an apprentice instructor license. Any extension of this period of time to be granted at the discretion of the board.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:050. Reciprocity for valid licensee.

RELATES TO: KRS 317A.050, 317A.100, 317B.040 [Section

7]

STATUTORY AUTHORITY: KRS 317A.060, 317A.100(1), 317B.020, 317B.040(1) [Section 7]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.100(1) and 317B.040(1) allow the board to prescribe reasonable administrative regulations pertaining to the issuance of a cosmetology license to any person holding a comparable license by another state, and the issuance of an esthetics license to any person holding a comparable license issued by another state or country. This administrative regulation establishes reciprocity requirements for cosmetology and esthetics applicants licensed in other states and for an esthetic practitioner licensed in another country. [KRS Chapter 317A and 317B authorize the Kentucky State Board of Hairdressers and Cosmetologists to prescribe rules and administrative regulations governing health and safety of the public; governing the training and supervision of cosmetologists; and governing the examinations for applicants for licenses. This administrative regulation is to allow applicants from other states with less than 1,800 hours to qualify for examination in order to obtain licenses.]

Section 1. Any applicant from another state within the United States [out-of-state], who holds a valid cosmetology [cosmetologist] or esthetic license and who can show proof of two (2) years current experience, may come before the state board for examination (practical only) by paying the out-of-state cosmetologist examination fee established in KRS 317A.050(10)(e) and the cosmetologist license fee established in KRS 317A.050(2)(d), or by paying the esthetician license fee established in 201 KAR 12:220, Section 1(1) and the out-of-state esthetician ex-

~~amination fee established in 201 KAR 12:220, Section 3(3). [fee as set forth in KRS 317A.050 plus the fee set forth in KRS 317A.050 for first license for a cosmetologist license and by paying the fees as set forth in 201 KAR 12:220 for an esthetician license.]~~

Section 2. **An applicant** [Applicants] shall provide:

- (1) A certification or official equivalent and copy of current license from the state board or state granting original license; and
- (2)(a) Proof of two (2) years high school education or its equivalent for a cosmetologist license; or
- (b) ~~[and]~~ Proof of four (4) years high school education or its equivalent for an esthetician license.

Section 3. (1) An esthetic practitioner who is a Comite' International D'Esthetique Et de Cosmetologie Organization (CIDESCO) Diplome shall receive a license to practice esthetics without examination if the practitioner:

- (a) ~~Provides [the individual must provide]~~ proof of successful completion of the CIDESCO examination; and
  - (b) ~~Pays a [pay the] fee of \$200.~~
- (2) Proof of successful CIDESCO examination completion shall be the following:
- (a) ~~[(4)]~~ Date, time and place of sitting for and passing the CIDESCO examination; and
  - (b) ~~[(2)]~~ Copy of the CIDESCO diploma and statement of verification from the CIDESCO International organization in Zurich [Zurich], Switzerland.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

#### BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

201 KAR 12:055. Instructor's license for out-of-state applicant.

RELATES TO: KRS 317A.050, 317A.100, 317B.025, 317B.040 [Section 4(5)]

STATUTORY AUTHORITY: KRS 317A.050, 317A.100(1), [Chapter] 317B.020, 317B.040(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.100(1) and 317B.040(1) allow the board to prescribe reasonable administrative regulations pertaining to the issuance of a cosmetologist or esthetician license to any person holding a comparable license issued by another state. This administrative regulation establishes requirements for out-of-state applicants for instructor's licenses. [Out-of-state applicants for instructor's licenses shall meet the same or similar requirements of resident instructors.]

Section 1. (1) Any applicant from another state within the United States [out-of-state] who holds a current instructor of cosmetology or esthetics license and who can show proof of two (2) years current experience as a licensed cosmetology or esthetics instructor and proof of the statutory educational requirements established in KRS 317A.050(6)(b) and 317B.025(4)(c) may come before the state board for examination [written [science] and practical] by paying the statutory out-of-state [nonresident] instructor fee pursuant to KRS 317A.050(10)(f) for cosmetologists and 201 KAR 12:220, Section 3(3) for estheticians.

(2) Before the first instructor license may be issued, the applicant shall:

- (a) Pass the prescribed examination for cosmetology instructors;
- (b) Pay the examination fee as set forth in KRS 317A.050(10)(b) for regular cosmetologists; and
- (c) Pay the first cosmetology license fee as set forth in

KRS 317A.050(2)(d).

(3) ~~[After passing the prescribed examination for cosmetology instructors, applicants shall pay the examination fee as set forth in KRS 317A.050 for regular cosmetologists and first cosmetology license fee as set forth in KRS 317A.050 before the first instructor license may be issued at the fee set forth in KRS 317A.050.] After passing the prescribed examination for esthetic instructors, an applicant shall pay the esthetician initial license fee established in 201 KAR 12:220, Section 1(1) and the esthetic instructor fee established in 201 KAR 12:220, Section 1(3). [applicants shall pay the fee as set forth by KRS Chapter 317B and 201 KAR 12:220.]~~

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

#### BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

201 KAR 12:060. Inspections.

RELATES TO: KRS 317A.050, 317A.060, 317B.025 [Section 4(3)]

STATUTORY AUTHORITY: KRS 317A.060, 317B.020 [Section 3]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 require the board to promulgate administrative regulations governing the operation of any schools and salons of cosmetology, nail technology and esthetics, and to protect the health and safety of the public. This administrative regulation establishes inspection and health and safety requirements for all schools and salons of cosmetology, nail technology, and esthetics. [Establishments licensed by this board require periodic inspections to insure compliance of the statutes and administrative regulations of the board. Posting of the licensees' pictures with their licenses aids the inspector and board members in determining the validity of each license of the personnel.]

Section 1. Any board member, the administrator and inspectors shall be allowed to enter any establishment licensed by this board or any place purported to be practicing cosmetology, nail technology or esthetics at any reasonable hour for the purpose of determining if the individuals are complying with KRS Chapters 317A, 317B and 201 KAR Chapter 12. ~~[the statutes and administrative regulations of the board.]~~

Section 2. Each licensee [Licensees] [Each licensee] shall attach his or her picture to the license. [their pictures to their licenses] [his picture to his license] and place it [same] in a conspicuous area in the salon or school.

Section 3. (1) Any salon closing for business but maintaining yearly license renewal shall be considered an inactive salon and shall remain same provided plumbing and equipment is not removed.

(2) The salon shall be inspected periodically.

(3) Any salon removing equipment and plumbing shall be considered out of business and the license voided.

Section 4. (1) All establishments licensed by this board shall be inspected a minimum of two (2) times per year.

(2) The owner and manager of each establishment [all establishments] licensed by the board are responsible for compliance with KRS Chapters 317A, 317B, and 201 KAR Chapter 12.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.  
CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:065. New. [~~Inspection of new,~~] relocated and change of owner salons.

RELATES TO: KRS 317A.050, 317A.060, 317B.025 [~~317B Section 4(3)~~]  
STATUTORY AUTHORITY: KRS 317A.060, 317B.025 [~~317B Section 4(3)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 require the board to promulgate administrative regulations governing the operation of any salons of cosmetology, nail technology and esthetics. This administrative regulation establishes requirements for beauty salons, nail salons and esthetic salons which are new, relocating or changing owners, and the separation of salons from barber shops. [Any business seeking licensing by this board shall meet various city, county and state zoning laws, building and plumbing codes, as well as inspection by board personnel. The board shall not issue a dual license for barber shops and beauty salons, nail salons or esthetic salons.]

Section 1. All [new] beauty salons, nail salons and esthetic salons which are new or relocating [~~and all beauty salons, nail salons and esthetic salons moving to a new location~~] shall complete a "Beauty Salon Application" or "Nail Salon Application" [~~an application~~] furnished by the board.

Section 2. Five (5) days before opening for business, all [new] beauty salons, nail salons and esthetic salons which are new relocating or changing owners [~~and all beauty salons, nail salons and esthetic salons moving to a new location;~~] and all beauty salons, nail salons and esthetic salons changing owners shall notify the board [~~five (5) days before opening for business~~] of the new location, date on which the salon is to be opened for business and name of the owner and manager of the salon.

Section 3. All [new] beauty salons, nail salons and esthetic salons which are new or relocating [~~and all beauty salons, nail salons and esthetic salons moving to a new location~~] shall be inspected by an inspector employed by the board before issuance of a license. A salon shall not open for business prior to issuance of a salon license.

Section 4. All [new] beauty salons, nail salons and esthetic salons which are new or relocating [~~and all beauty salons, nail salons and esthetic salons moving to a new location~~] shall comply with all city, county, and state zoning, building and plumbing laws, administrative regulations and codes.

Section 5. (1) Except as provided by subsection (2) of this section, all beauty salons, nail salons and esthetic salons shall be separated from all barber shops by a solid [~~soundproof~~] partition extending to the ceiling and each facility shall have its own individual entrance.

(2) The provisions of subsection (1) of this section shall not apply to a nursing home if it:

(a) Has obtained a salon license from the board; and  
(b) The practice of barbering does not occur at the same time as the practice of cosmetology.

(3) If the provisions of subsection (2) of this section have been met, a cosmetologist may engage in the practice of cosmetology on the premises of a nursing home in the same facility established by the nursing home for the practice of barbering.

Section 6. Any salon located in a residence shall have its own

outside entrance separate from that of the residence.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Beauty Salon Application" (2003); and

(b) "Nail Salon Application" (2003).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [an outside entrance.]

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:070. Requirements for esthetic salons [~~of esthetic practices~~].

RELATES TO: KRS 317B.025 [~~317B Section 4(3)~~]

STATUTORY AUTHORITY: KRS 317B.020 [~~317B Section 3(3)(a), (b), (c), and (e)~~]

NECESSITY, FUNCTION AND CONFORMITY: KRS 317B.020(3) [~~317B Section 3~~] requires the board to promulgate administrative regulations to protect the health and safety of the public; [~~protect the public against incompetent or unethical practice, misrepresentation, deceit, or fraud in the practice of esthetics or teaching of esthetic practices;~~] set standards for the operation of the schools and salons; and establish the quality of equipment, supplies, materials, records, and furnishings required in esthetic salons or classrooms. This administrative regulation establishes requirements for equipment, supplies and materials used in esthetic salons and licensure requirements for establishments where esthetics are practiced.

Section 1. Any beauty salon practicing esthetics and [~~or~~] esthetic salons shall meet the following minimum requirements for each work area:

- (1) Privacy for changing [~~Private changing area~~];
- (2) One (1) [~~double~~] sink in each work area with hot and cold running water;
- (3) One (1) steamer [~~Two (2) steamers~~] for hot towels;
- (4) One (1) autoclave;
- (5) Closed cabinet for clean towels and linens;
- (6) Closed container for used towels and linens;
- (7) Sufficient number of covered waste containers;
- (8) Seventy (70) percent alcohol at every station;
- (9) Hand disinfectant;
- (10) Hospital grade disinfectant;
- (11) Antiseptics;
- (12) Sharps containers;
- (13) Gloves;
- (14) Dry sanitizer; and
- (15) Disposable applicators.

Section 2. Under the "immediate supervision" requirement established by KRS 317B.015(1), an esthetician may perform the activities listed in the statute only if a doctor is in the same room overseeing these activities at all times. [Any esthetician or dual cosmetologist/esthetician practicing botox or collagen injections, or [microdermabrasion,] laser treatments, electrolysis, tattoo, permanent makeup, or piercing] shall be supervised by a licensed physician while the service is being performed.

Section 3. Any establishment [~~room~~] [~~establishment~~] or facility where esthetics is performed shall be licensed by the board



pursuant to KRS 317B.025(3). [~~including a physician's office, must be licensed by the board.~~]

BEA COLLINS, Chairman

APPROVED BY AGENCY: November 12, 2003

FILED WITH LRC: November 12, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:080. Salon and school [~~Shops' and schools'~~] public identification.

RELATES TO: KRS 317A.020, [~~317A.030, 317A.040, 317A.050, 317B.025~~] [~~317B Section 4(3)~~]

STATUTORY AUTHORITY: KRS 317A.060, 317B.020 [~~317B Section 3(3)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and KRS 317B.020 require the board to promulgate administrative regulations governing the operation of any schools and salons of cosmetology, nail technology, and esthetics and to protect the health and safety of the public. This administrative regulation sets forth requirements for public identification of establishments licensed by the board to aid the general public and inspectors in locating these establishments. [Public identification aids the general public and inspectors employed by the board in locating establishments licensed by the board.]

Section 1. The main entrance to any establishment licensed by the board shall display a sign indicating a beauty salon, nail salon, esthetic salon or cosmetology school. The sign shall indicate the name of the salon or school and shall be clearly visible at the main entrance of said place.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:082. School's course of instruction.

RELATES TO: KRS 317.050(8), [~~317A.060(1),~~] 317A.090

STATUTORY AUTHORITY: KRS 317A.060(1), 317A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060(1) requires the board to promulgate administrative regulations governing schools of cosmetology, including their hours and courses of instruction. KRS 317A.090 establishes the requirements for schools of cosmetology. [~~KRS 317A.050(7)(d) provides that a license to operate a school of cosmetology may be granted if the applicant has complied with applicable statutes and administrative regulations governing schools of cosmetology.~~] This administrative regulation establishes requirements for the hours and courses [~~course~~] of instruction of schools of cosmetology.

Section 1. The regular courses of instruction for cosmetology students shall contain the following:

- (1) Professional practices.
  - (a) The cosmetology profession.
    1. Cosmetology vocabulary.
    2. Brief history: how it began, and changes.
    3. Ethics: ethics in a beauty salon; and salon conduct.

(b) Salon procedures.

1. Hygiene and good grooming.

a. Personal and public;

b. Personal characteristics; and

c. Responsibilities of a cosmetologist.

2. Professional attitudes and salesmanship.

a. Personality development;

b. Salesmanship and business management;

c. Customer relationship; and

d. Telephone personality.

3. Public relations and psychology.

a. Behavior; and

b. Proper image.

(c) Specialty services.

1. Facial treatments and make-up.

a. Facial treatment/make-up preparation;

b. Implements and supplies;

c. Procedure in giving a plain facial;

d. Purpose and effect of massage movements;

e. Facial cosmetics;

f. Special problems;

g. Eye-brow arching; and

h. Lash and brow dye.

2. Nail technology.

a. Purpose and effect;

b. Preparation;

c. Equipment; and

d. Procedures, including the following:

(i) Plain manicure;

(ii) Oil manicure;

(iii) Removal of stains;

(iv) Repair work;

(v) Hand and arm massage;

(vi) Buffing;

(vii) Application of lacquer; and

(viii) Application of artificial nails.

(2) Life sciences (general anatomy).

(a) Osteology.

1. Definition; and

2. Functions.

(b) Myology.

1. Definition;

2. Functions; and

3. Types.

(c) Neurology.

1. Definition;

2. Functions;

3. Types (motor and sensory); and

4. Principal nerves of the head, face and neck.

(d) Angiology.

1. Definition;

2. Composition of blood; and

3. Function of blood.

(e) Dermatology.

1. Structure of skin;

2. Functions of skin;

3. Appendages of skin;

4. Conditions of the skin; and

5. Lesions of the skin.

(f) Trichology.

1. Structure of hair;

2. Composition;

3. Blood and nerve supply;

4. Growth and regeneration;

5. Color;

6. Texture;

7. Elasticity;

8. Porosity; and

9. Conditions to be recognized.

(g) Nails.

1. Structure and composition;

2. Growth and regeneration; and

3. Irregularities.

(3) Physical sciences (chemistry and treatment).



(a) Chemistry.

1. Elements, compounds, and mixtures.

a. Properties of:

b. Acid and alkali; and

c. Chemistry of water.

2. Composition and uses of cosmetics.

a. For the body;

b. For the skin and face; and

c. For the scalp and hair.

3. Chemistry of hair lightening.

4. Chemistry of hair coloring.

5. Chemical hair relaxing.

6. Chemistry of make-up.

7. Chemistry of facial treatments.

8. Chemistry of rinses.

a. Soaps and shampoos; and

b. Detergents.

9. Chemistry of cold waving.

(b) Scalp and hair treatments.

1. Purpose and effects;

2. Preparation and procedure;

3. Use of cap;

4. Electricity and therapeutic ray; and

5. Safety rules.

(c) Shampoos and rinses.

1. Importance of good shampoo;

2. Purpose of effects;

3. Required materials and implements;

4. Brushing and drying;

5. Types of shampoos;

6. Rinses (not colored); and

7. Composition.

(d) Hair coloring.

1. Principal reasons for coloring;

2. Advantages of coloring;

3. Classifications of hair coloring;

4. Variation of products;

5. Procedures; and

6. Safety measures.

(e) Hair lightening.

1. Types of lighteners;

2. Implements and supplies;

3. Procedure;

4. Special problems in hair lightening;

5. Fillers and toners;

6. Removal of aniline derivative tints; and

7. Tint back to natural coloring.

(f) Cold waving.

1. Basic requirements;

2. Scalp and hair analysis;

3. Hair porosity;

4. Hair texture;

5. Hair elasticity;

6. Hair density;

7. Curling rods and chemicals;

8. Variation of permanent wave products;

9. Procedures;

10. Problems; and

11. Safety measures.

(g) Sterilization and sanitation.

1. Definitions;

2. Importance;

3. Sterilization rules; and

4. Methods of sterilization.

(4) Hair designing or sculpturing.

(a) Hair shaping.

1. Fundamentals of hair shaping;

2. Correct use of tools;

3. Designing and planning the hair cut;

4. Sectioning and thinning;

5. Razor and shear shaping;

6. Wig shaping; and

7. Safety precautions.

(b) Hair styling.

1. Finger waving;

2. Pin curls;

3. Hair partings;

4. Artistry hair styling;

5. Dressing of the coiffure;

6. Special consideration in hair styling;

7. Chemical hair relaxing and styling;

8. Facial types; and

9. Hair pressing and types of hot-iron curling.

(c) Care and styling of wigs.

1. Purpose;

2. Quality;

3. Types of wigs;

4. Ordering wigs;

5. Cleaning;

6. Shaping;

7. Tinting and color rinsing;

8. Setting; and

9. Safety precautions. [Hygiene and good grooming; personal and public; personal characteristics; and responsibilities of a cosmetologist.

2. Professional attitudes and salesmanship; personality development; salesmanship and business management; customer relationship; and telephone personality.

3. Public relations and psychology; behavior; and proper image.

(c) Specialty services.

1. Facial treatments and make-up; facial treatment/make-up preparation; implements and supplies; procedure in giving a plain facial; purpose and effect of massage movements; facial cosmetics; special problems; [machines or accessibility to machines]; eyebrow arching; and lash and brow dye.

2. Nail technology; purpose and effect; preparation; equipment; and procedures, including the following: plain manicure, oil manicure, removal of stains, repair work, hand and arm massage, buffing, application of lacquer, and application of artificial nails.

(2) Life sciences (general anatomy).

(a) Osteology: definition; and functions.

(b) Myology: definition; functions; and types.

(c) Neurology: definition; functions; types (motor and sensory); and principal nerves of the head, face and neck.

(d) Angiology: definition; composition of blood; and function of blood.

(e) Dermatology: structure of skin; functions of skin; appendages of skin; conditions of the skin; and lesions of the skin.

(f) Trichology: structure of hair; composition; blood and nerve supply; growth and regeneration; color, texture, elasticity, porosity; and conditions to be recognized.

(g) Nails: structure and composition; growth and regeneration; and irregularities.

(3) Physical sciences (chemistry and treatment).

(a) Chemistry.

1. Elements, compounds, and mixtures: properties of; acid and alkali; and chemistry of water.

2. Composition and uses of cosmetics: for the body; for the skin and face; and for the scalp and hair.

3. Chemistry of hair lightening.

4. Chemistry of hair coloring.

5. Chemical hair relaxing.

6. Chemistry of make-up.

7. Chemistry of facial treatments.

8. Chemistry of rinses: soaps and shampoos; and detergents.

9. Chemistry of cold waving.

(b) Scalp and hair treatments: purpose and effects; preparation and procedure; use of cap; electricity and therapeutic ray; and safety rules.

(c) Shampoos and rinses: importance of good shampoo; purpose of effects; required materials and implements; brushing and drying; types of shampoos; rinses (not colored); and composition.

(d) Hair coloring: principal reasons for coloring; advantages of coloring; classifications of hair coloring; variation of products; procedures; and safety measures.

(e) Hair lightening: types of lighteners; implements and supplies; procedure; special problems in hair lightening; fillers and

toners; removal of aniline derivative tints; and tint back to natural coloring.

(f) Cold waving: basic requirements; scalp and hair analysis; hair porosity; hair texture; hair elasticity; hair density; curling rods and chemicals; variation of permanent wave products; procedures; problems; and safety measures.

(g) Sterilization and sanitation: definitions; importance; sterilization rules; and methods of sterilization.

(4) Hair designing or sculpturing.

(a) Hair shaping: fundamentals of hair shaping; correct use of tools; designing and planning the hair cut; sectioning and thinning; razor and shear shaping; wig shaping; and safety precautions.

(b) Hair styling: finger waving; pin curls; hair partings; artistry hair styling; dressing of the coiffure; special consideration in hair styling; chemical hair relaxing and styling; facial types; and hair pressing and types of hot iron curling.

(c) Care and styling of wigs: purpose; quality; types of wigs; ordering wigs; cleaning; shaping; tinting and color rinsing; setting; and safety precautions.]

Section 2. A school shall teach the students about the various supplies and equipment used in the usual salon practices.

Section 3. A school shall have the following charts or visual aids available for students' use:

(1) Charts or visual aids showing anatomy of muscles of face and neck with special reference to the direction of muscle fibers and function of muscle or groups of muscles; and

(2) Charts or visual aids showing anatomy of nails.

Section 4. A student shall receive not less than 1,800 hours in clinical class work and scientific lectures with 450 minimum lecture hours for science and theory and 1,305 minimum clinic and practice hours; and forty-five (45) hours of applicable Kentucky statutes and administrative regulations.

Section 5. One (1) hour per week shall be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and the administrative regulations of the board.

Section 6. A school of cosmetology shall maintain and teach ~~[not be granted a license to operate a school of cosmetology or an annual renewal of a license unless]~~ the following curriculum ~~[is maintained and taught]~~:

(1) Curriculum for freshmen students.

(a) Theory and related theory class, 100 hours.

1. General theory, including Kentucky cosmetology law and applicable administrative regulations promulgated thereunder.

2. Clinical theory.

3. Lecturing theory.

(b) Clinical and related theory class (freshman practice class on students or mannequins), 200 hours.

1. Cold waves.

2. Facials and make-up.

3. Complete "S" formations or complete finger waves.

4. Pin curl technique.

5. Hair shaping.

6. Hair styling techniques.

7. Lash and brow tint.

8. Eyebrow arches.

9. Nail technology.

10. Scalp treatments.

11. Shampooing.

12. Hair coloring, bleaching, and rinsing (mixing and formulas).

13. Heat permanent.

14. Safety measures.

(2) Curriculum for junior and senior students.

(a) Theory and related theory class, 500 hours, including:

1. Professional practices;

2. Life sciences (general anatomy);

3. Physical sciences (chemistry and treatment);

4. Hair designing safety measures; and

5. Kentucky cosmetology laws and applicable administrative regulations. ~~[professional practices, life sciences (general~~

~~anatomy), physical sciences (chemistry and treatment), hair designing safety measures, Kentucky cosmetology laws and applicable administrative regulations.]~~

(b) Clinical class, 1,000 hours.

1. Hair conditioning treatments.

2. Scalp treatments.

3. Hair shaping.

4. Shampoos.

5. Cold waves.

6. Chemical hair relaxing (permanent wave).

7. Complete "S" formation and complete finger waves.

8. Pin curl techniques.

9. Hair styles.

10. Iron curling.

11. Hair coloring and toning.

12. Bleaches and frostings.

13. Facials and make-up.

14. Nail technology.

15. Lash and brow tints.

16. Eyebrow arches.

17. Color rinses (certified color).

18. Wiggery.

19. Professional ethics and good grooming.

20. Salesmanship.

21. Reception desk and telephone answering.

22. Recordkeeping.

23. Dispensary (procedures for ordering supplies and retail merchandise).

24. Personality development.

25. Salon management.

26. Public relations.

Section 7. In addition to the regular course of instruction, a cosmetology school may have two (2) related lectures and demonstrations per month.

Section 8. Time not utilized in theory or clinic work shall be used for study periods or library work.

Section 9. A school shall furnish students text books that have been approved by the board.

Section 10. A student of cosmetology shall not be permitted to work on the public until the student has completed 300 hours of instruction.

Section 11. A student of cosmetology shall be allowed a total of sixteen (16) hours for out-of-school activities pertaining to the profession of cosmetology per 1,800 hours, not to exceed eight (8) hours per day, if: [eight (8) hours per day for two (2) out-of-school activities per 1,800 hours pertaining to the profession of cosmetology if:]

(1) It is reported to the board office on "Certification of Cosmetology Field Trip \* Hours (95)" form, or "Certification of Cosmetology Student Education Show \* Hours (95)" form, as appropriate; and

(2) The form is received in the board office within ten (10) days of the date of the field trip.

Section 12. A student of cosmetology shall be allowed a total of sixteen (16) hours for attending educational programs per 1,800 hours, not to exceed eight (8) hours per day, if: [permitted to attend two (2) educational programs within the 1,800-hour course for eight (8) hours credit per day, if:]

(1) Reported to the board office on "Certification of Cosmetology Field Trip \* Hours" form, or "Certification of Cosmetology Student Education Show \* Hours" form, as appropriate; and

(2) The form is received in the board office within ten (10) days of the date of the educational show.

Section 13. A copy of the Kentucky State Board of Hairdressers and Cosmetologists' statutes and administrative regulations shall be made available to all students.

Section 14. Nail technician curriculum shall include the following:

- (1) Science and theory, 200 hours.
  - (a) 1. Equipment;
  2. Sterilization;
  3. Sanitation;
  4. Chemistry and types of artificial nails;
  5. Public and personal hygiene safety measures; and
  6. Statutes and administrative regulations governing cosmetology and nail technology. [Equipment, sterilization, sanitation, chemistry and types of artificial nails, public and personal hygiene safety measures, statutes and administrative regulations governing cosmetology and nail technology.]
- (b) Nail condition and manicure techniques.
- (c) Hand and arm massage.
- (d) Science pertaining to areas of hands and arms.
- (e) 1. Personality;
2. Grooming;
3. Salon management;
4. Professional ethics; and
5. Cosmetic theory laws. [Personality, grooming, salon management, professional ethics, and cosmetic theory laws.]
- (f) Nails:
  1. Structure and composition;
  2. Growth and regeneration; and
  3. Irregularities.
- (2) Clinical; 400 hours.
  - (a) Oil and plain manicure.
  - (b) Nail polish changes;
    1. Nail polish changes;
    2. Moons;
    3. Half-moons; and
    4. Tips. [-moons, half moons, and tips.]
  - (c) Hand and arm massage.
  - (d) Safety measures.
  - (e) Care of equipment.
  - (f) Removal of stains.
  - (g) Repair work including wraps and tips.
  - (h) Buffing.
  - (i) Application of lacquer.
  - (j) Application of artificial nails.

Section 15. The course of study and curriculum for an apprentice instructor shall include as a minimum, for [with] a total of 1,000 hours, the following:

- (1) Orientation, fifteen (15) hours.
- (2) Psychology of student training, fifty (50) hours.
- (3) Introduction to teaching, thirty (30) hours.
- (4) Good grooming and personality development, fifty (50) hours.
- (5) Course outlining and development, forty (40) hours.
- (6) Lesson planning, forty-five (45) hours.
- (7) Teaching techniques (methods), eighty (80) hours.
- (8) Teaching aids, audio-visual techniques, eighty [eight] (80) hours.
- (9) Demonstration techniques, fifty-five (55) hours.
- (10) Examinations and analysis, sixty (60) hours.
- (11) Classroom management, forty-five (45) hours.
- (12) Recordkeeping, twenty-five (25) hours.
- (13) Teaching observation, sixty-five (65) hours.
- (14) Teacher assistant, ninety (90) hours.
- (15) Pupil teaching (practice teaching), 270 hours.

Section 16. An apprentice [A-student] instructor shall be under the immediate supervision and instruction of a licensed instructor during the school day. An apprentice [A-student] instructor shall not assume the duties and responsibilities of a licensed supervising instructor.

Section 17. All records of apprentice instructors' hours earned shall be recorded on the "Monthly Attendance Report" form supplied by the board office on or before the tenth day of each month.

Section 18. If the board permits a student to enroll in a school

for a special brush-up course in any of the following subjects, the student shall be required to have a course of training of the following number of hours in the course or courses he desires to take:

- (1) Permanent waving, and all chemical control, 150 hours.
- (2) Nail technology, hand and arm massage, and application of artificial nails, 100 hours.
- (3) All iron curls, 100 hours.
- (4) Facials, 125 hours.
- (5) Hair coloring and bleaching, 150 hours.
- (6) Scalp massage, 25 hours.
- (7) Hair shaping, trimming, and thinning, 125 hours.
- (8) Science, 100 hours.
- (9) Hair dressing and styling, 150 hours.

Section 19. Incorporation by Reference. (1) The following material is [forms are] incorporated by reference:

- (a) "Certification Of Cosmetology Field Trip \* Hours" (2003) [(1995) Kentucky State Board of Hairdressers and Cosmetologists];
  - (b) "Certification Of Cosmetology Student Education Show \* Hours" (2003) [(1995) Kentucky State Board of Hairdressers and Cosmetologists]; and
  - (c) The "Monthly Attendance Report" Form, (2003) [1993 edition, Kentucky State Board of Hairdressers and Cosmetologists].
- (2) This material [These forms] may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A [314 West Second Street], Frankfort Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

BEA COLLINS, Chairman

APPROVED BY AGENCY: November 11, 2003

FILED WITH LRC: November 12, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

# BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

## 201 KAR 12:083. Educational requirements.

RELATES TO: KRS 317A.050, [317A.060,] 317A.140, 317B.025(1)(c), (4)(c) [317B Section 4 (1)(c), (4)(c)]  
STATUTORY AUTHORITY: KRS 317A.060[(h)], 317B.020(3) [317B Section 3(3)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 require the board to promulgate administrative regulations governing the operation of schools of cosmetology and esthetics, including the proper education and training of students. This administrative regulation establishes proof of education and other enrollment requirements. [Students enrolling in a school of cosmetology shall show proof of educational requirements. Applicants for cosmetologist's license and nail technician's [manicurist's] license shall show proof of two (2) years high school or its equivalent. Applicants for esthetician's license shall show proof of four (4) years high school or its equivalent. School owners are responsible for obtaining and forwarding student enrollment applications and proof of education to the board; if the board fails to receive said information from the school within ten (10) working days after the student date of enrollment, the school may be fined or its license suspended or revoked.]

Section 1. (1) Any person enrolling in a school of cosmetology for a cosmetology or nail technician course shall complete a "Student Enrollment Application for Kentucky Cosmetology School" [an application for enrollment] provided by the board.

(2) The applicant shall furnish proof that he or she has [they have] [he or she has] completed two (2) years of high school or its equivalent.

(3) The required proof shall be any one (1) of the following:

- (a) [(4)] A transcript of subjects and grades showing the appli-

cant has completed grades nine (9) and ten (10);

(b) [(2)] G.E.D. test indicating score equivalent to tenth grade high school as determined by the Department of Education; or

(c) High school diploma or G.E.D. certificate. [a minimum grade of thirty-nine (39);

(3) A notarized statement from the high school principal, counselor, or superintendent, stating that in their opinion the applicant has an educational equivalency of completing tenth grade. Said statement shall be on school stationery;]

[(3)-(4)] If the student has graduated from high school or completed the G.E.D. test for four (4) years high school, his or her diploma may be presented.]

Section 2. Any person enrolling in a school of cosmetology for the esthetics course shall complete the [an] application for enrollment provided by the board. The applicant shall furnish proof that he or she has completed four (4) [two (2)] years of high school or its equivalent. The required proof shall be any one (1) of the following:

(1) A transcript of subjects and grades showing the applicant has completed 12th grade.

(2) G.E.D. indicating score equivalent to 12th grade high school as determined by the Department of Education.

(3) High school diploma or G.E.D. certificate.

Section 3. (1) The student enrollment application, accompanied by the applicant's proof of education, shall be received by the board no later than ten (10) working days after the student date of enrollment.

(2) A [No] student shall not receive credit hours if the application is not received within the ten (10) day period.

(3) The school shall [beyond the ten (10)-day period. It is the responsibility of the school to] forward to the board the enrollment application and proof of education so that the board receives the [said] information no later than ten (10) working days after the student date of enrollment.

(4) [:] Failure of the school to timely forward the [said] information to the board may result in suspension or revocation of the [said] school's license or a fine of twenty-five (25) dollars a day for every day the application is late.

Section 4. (1) A [3.] [No] person shall not be permitted to enroll in a school of cosmetology for a brush-up course unless;

(a) The applicant holds a current [an unexpired and unrevoked] license issued by this board; or

(b) The applicant has obtained special permission from the board.

(2) The [-Said] applicant shall complete the [an] application for enrollment [and provide the necessary educational requirements in effect at the time of original licensure].

Section 5. Incorporation by Reference. (1) "Student Enrollment Application for Kentucky Cosmetology School" (2003) is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [4:] [Any person previously licensed by this board having an expired license shall be permitted to enroll in a school of cosmetology for a brush-up or refresher course upon obtaining special permission of the board. Said applicant shall complete an application for enrollment [and provide the necessary educational requirements in effect at the time of original licensure].]

[Section 5. All schools of cosmetology shall advise individuals enrolling in a school of cosmetology of the educational requirements of a tenth grade education or its equivalent to obtain an apprentice cosmetologist's license and the requirement of two (2) years high school or its equivalent to obtain a cosmetologist's license or a manicurist's license.]

FILED WITH LRC: November 12, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

BOARD OF HAIRDRESSERS AND COSMETOLOGISTS  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:088. Esthetic [Esthetic's] course of instruction.

RELATES TO: KRS 317B.020(1)(d), 317B.025 [317B-Section 4(1)(d)]

STATUTORY AUTHORITY: KRS 317B.020(3) [317B-Section 3(3), (f), (g), (i)]

NECESSITY, FUNCTION AND CONFORMITY: KRS 317B.020 requires the board to promulgate administrative regulations establishing course work and conduct of school owners, instructors, estheticians, esthetic salons, and cosmetology schools conducting classes in esthetic practices; set the requirements for the proper education and training of students; and set the standard for the hours and courses of instruction in esthetic practices. This administration regulation establishes requirements for the hours and courses of instruction for esthetician students.

Section 1. Definition. "Cosmetic resurfacing exfoliating procedures" means the application of cosmetic resurfacing exfoliating substances by licensed practitioners for the purpose of improving the aesthetic appearance of the skin.

Section 2. The regular course of instruction for esthetician students shall consist of the following:

(1) Professional practices.

(a) The esthetics profession.

1. Orientation.

2. History and evolution of skin care.

3. Esthetics vocabulary.

4. Ethics: personal and professional.

5. State law.

(b) Salon procedures.

1. Hygiene and grooming.

2. Responsibilities of an esthetician.

3. Standards and procedures.

4. Salesmanship.

5. Personality development.

6. Customer relations and business developments.

(2) Science, theory and state and federal law relating to the practice.

(a) Life sciences, anatomy and physiology of the skin.

1. Skin function.

2. Biochemistry.

3. Layers of the skin.

(b) Body systems.

1. Skeletal.

2. Muscular.

3. Circulatory.

4. Nervous.

5. Endocrine.

6. Immune.

7. Respiratory.

8. Digestive.

9. Reproductive.

10. Integumentary.

(c) Bones, muscles and nerves of the face and skull.

(d) Chemistry.

1. Elements, compounds and mixtures.

2. Composition and uses of cosmetics for the skin and face.

3. Chemistry of makeup.

4. Chemistry of facial treatments and products.

(e) Bacteriology and sanitation.

1. Microorganisms.

BEA COLLINS, Chairman

APPROVED BY AGENCY: November 12, 2003

2. Sanitation and sterilization.
3. State and federal requirements.
- (f) Disorders and diseases.
  1. Dermatological terms.
  2. Lesions.
  3. Common, contagious and other diseases.
  4. Allergens.
  5. Autoimmune diseases.
- (g) Facials.
  1. Products, supplies and set up.
  2. Benefits, purpose and function.
  3. Procedures including:
    - a. Skin analysis.
    - b. Consultation.
    - c. Deep cleansing.
    - d. Exfoliation.
    - e. Extractions, including:
      - (i) Comedone extractor.
      - (ii) Light therapy.
      - (iii) Brushes.
    - f. Use of steamer and brush.
    - g. Electrodes.
    - h. Massage.
    - i. Masks.
  4. Equipment and technological tools.
    - a. Machines: use and safety.
    - b. Electricity and light therapy.
    - c. Microdermabrasion.
  5. Body treatments.
    - a. Sanitation and hygiene.
    - b. Cleansing, exfoliation, scrubs and wraps.
    - c. Hydrotherapy.
    - (h) Pharmacology.
      1. Over the counter and prescription drugs.
      2. Allergic reactions.
      3. State and federal requirements.
        - (i) Methods of hair removal.
        - (j) Make up application.
          1. Color theory.
          2. Facial shapes.
          3. Products, tools and equipment.
          4. Client consultation.
        5. Basic, corrective and camouflage application.
        6. Artificial eye lashes.
        7. Lash and brow tint.
      - (k) Advanced skin care.
        1. Aging.
        2. Reactions to sun.
        3. Sensitive skin.
        4. Ethnic skin.
        5. Exfoliation.
        6. Alternative skin care.
          - (l) Clinical skin care.
            1. Plastic and reconstructive surgery under the supervision of a medical doctor.
        2. Glycolic peels.
          - a. Cosmetic resurfacing exfoliating substance and equipment, which includes cosmetic use of the following:
            - (i) Thirty (30) percent alpha hydroxy acid (AHAs which include glycolic and lactic acids with a pH of three (3.0) or higher).
            - (ii) Zero percent beta hydroxy acid (BHAs which include salicylic acid with a pH of three (3.0) or higher).
            - (iii) Trichloroacetic acid (TCA) with levels less than twenty (20) percent.
            - (iv) Jessner's solutions (14) percent salicylic acid, lactic acid, and two (2) percent resorcinol).
            - (v) Proteolytic enzymes (papain and bromelain).
          - b. Equipment and instruments that mechanically administer substances, including:
            - (i) Brushing machines.
            - (ii) Polyethylene granular scrubs.
            - (iii) Loofah or textured sponges.
            - (iv) Gommage.

- (v) Lancets with blades less than 2mm.
- (vi) Microdermabrasion instruments, provided the manufacturer has established and substantiated product and equipment safety with the Federal Food and Drug Administration (FDA).
- c. Glycolic peels exclude all other chemical and mechanical exfoliation/peeling procedures and substances, including:
  - (i) Carbollic acid (phenol).
  - (ii) Products listed above that exceed the stated maximum levels or combinations thereof.
  - (iii) Lancets when used to penetrate the stratum corneum or remove hair.
  - (iv) All adulterated chemical exfoliating/peeling substances.
  - (v) Devices that penetrate beyond the stratum corneum of the epidermis.
- d. Cosmetic resurfacing exfoliating procedures.
3. Microdermabrasion.
  - a. The FDA lists microdermabrasion equipment as Class I devices intended for use by licensed practitioners trained in the appropriate use of such equipment.
  - b. For purposes of this rule, microdermabrasion equipment is considered a cosmetic resurfacing exfoliating substance only if the equipment is used in a manner that is not intended to remove viable (living) skin below the stratum corneum.
4. Pre- and postoperative procedures.

Section 3. A student of esthetics shall not receive less than 1,000 hours in clinical and theory class work with 350 minimum lecture hours for science and theory; fifty (50) hours of applicable Kentucky statutes and administrative regulations; and 600 minimum clinic and practice hours.

Section 4. A student of esthetics shall have completed 300 hours in clinical and related theory class before working on and providing services to the general public. Clinical practice shall be performed on other students or mannequins.

Section 5. A school of cosmetology shall maintain and teach the following curriculum:

- (1) Curriculum for beginning students:
  - (a) Theory and related theory class, 100 hours.
    1. General theory, including applicable Kentucky statutes and administrative regulations and applicable federal requirements.
    2. Clinical theory.
    3. Scientific lecturing theory.
    - (b) Clinical and related theory class with clinical practice class on students or mannequins, 200 hours.
      1. Skin analysis.
      2. Esthetic practices.
      3. Diseases and disorders of the skin.
      4. Electricity and light therapy.
      5. Sanitation and sterilization.
      6. Basic facials.
      7. Chemistry.
      8. Color theory and makeup.
      9. Introduction and safety of machines.
      10. Procedures for arching by tweezing or waxing.
  - (2) The curriculum for students with more than 300 hours shall include theory and clinical practice as follows:
    - (a) Chemical peels - 100 hours.
    - (b) Esthetic practices - 175 hours.
      1. Consultation.
      2. Skin analysis.
      3. Facial and body treatments.
      4. Disorders and diseases of the skin.
      5. Electricity and light therapy.
      6. Eyebrow arching by tweezing or waxing.
      7. Skin care machines - proper use and safety.
      8. Techniques of massage.
      9. Artificial eyelash application.
      10. Lash and brow tinting.

(c) Facial and body procedures with and without machines including disincrustation, ionization, all skin types, acne, body wraps - 125 hours.

(d) Makeup application and artistry including corrective and camouflage - fifty (50) hours.

(e) Removal of excess or unwanted hair by tweezing or waxing - twenty-five (25) hours.

(f) Beautifying or cleansing of the body with preparations, antiseptics, tonics, lotions or creams - twenty-five (25) hours.

(g) Providing preoperative and postoperative skin care under the immediate supervision of a licensed physician - seventy-five (75) hours.

(h) Salon management - twenty-five (25) hours.

Section 6. Time not utilized in theory or clinic work and practice shall be used for study periods and library work to be counted toward the necessary number of hours to be completed as established in Sections 2, 3, and 4 of this administrative regulation. [The regular course of instruction for esthetician students shall consist of the following:

(1) Professional practices:

(a) The esthetics profession:

1. Orientation.
2. History and evolution of skin care.
3. Esthetics vocabulary.
4. Ethics: personal and professional.
5. State law.

(b) Salon procedures:

1. Hygiene and grooming; responsibilities of an esthetician.
2. Standards and procedures.
3. Salesmanship; personality development; customer relations and business developments.

(2) Science, theory and state and federal law relating to the practice:

(a) Life sciences, anatomy and physiology of the skin:

1. Skin function.
2. Biochemistry.
3. Layers of the skin.

(b) Body systems:

1. Skeletal.
2. Muscular.
3. Circulatory.
4. Nervous.
5. Endocrine.
6. Immune.
7. Respiratory.
8. Digestive.
9. Reproductive.
10. Integumentary.

(c) Bones, muscles, and nerves of the face and skull.

(d) Chemistry:

1. Elements, compounds and mixtures.
2. Composition and uses of cosmetics for the skin and face.
3. Chemistry of makeup.
4. Chemistry of facial treatments and products.

(e) Bacteriology and sanitation:

1. Microorganisms.
2. Sanitation and sterilization.
3. State and federal requirements.

(f) Disorders and diseases:

1. Dermatological terms.
2. Lesions.
3. Common, contagious and other diseases.
4. Allergens.
5. Autoimmune diseases.

(g) Facials:

1. Products, supplies and set up.
2. Benefits, purpose and function.

3. Procedures including skin analysis; consultation; deep cleansing; exfoliation; extractions including comedone extractor, light therapy, brushes; use of steamer and brush; electrodes; massage; and masks.

4. Equipment and technological tools:

a. Machines: use and safety.

b. Electricity and light therapy.

c. Microdermabrasion.

5. Body treatments:

- a. Sanitation and hygiene.
- b. Cleansing; exfoliation; scrubs; wraps.
- c. Hydrotherapy.
- (h) Pharmacology.

1. Over the counter and prescription drugs.

2. Allergic reactions.

3. State and federal requirements.

(i) Methods of hair removal.

(j) Make up application:

1. Color theory.
2. Facial shapes.
3. Products, tools and equipment.
4. Client consultation.
5. Basic, corrective and camouflage application.
6. Artificial eye lashes.
7. Lash and brow tint.

(k) Advanced skin care:

1. Aging.
2. Reactions to sun.
3. Sensitive skin.
5. Ethnic skin.
5. Exfoliation.
6. Alternative skin care.

(l) Clinical skin care:

1. Plastic and reconstructive surgery under the supervision of a medical doctor.

2. Glycolic peels:

a. Applicable definitions:

1. "Cosmetic Resurfacing Exfoliating Substance and Equipment" includes cosmetic use of the following:

(a) Thirty (30) percent alpha hydroxy acid (AHAs which includes glycolic and lactic acids with a pH of 3.0 or higher).

(b) Zero percent beta hydroxy acid (BHAs which include salicylic acid with a pH of 3.0 or higher);

(c) Trichloroacetic Acid (TCA) with levels less than twenty (20) percent;

(d) Jessner's solutions (fourteen (14) percent salicylic acid, lactic acid, and two (2) percent resorcinol);

(e) Proteolytic enzymes (papain and bromelain).

2. The term also includes equipment and instruments that mechanically administer substances, including:

(a) Brushing machines;

(b) Polyethylene granular scrubs;

(c) Loofah or textured sponges;

(d) Gommage;

(e) Lancets with blades less than two (2) mm;

(f) Microdermabrasion instruments, provided the manufacturer has established and substantiated product and equipment safety with the federal Food and Drug Administration (FDA).

3. The term excludes all other chemical and mechanical exfoliation/peeling procedures and substances including, but not limited to:

(a) Carbolic acid (phenol);

(b) Products listed above that exceed the stated maximum levels or combinations thereof;

(c) Lancets when used to penetrate the stratum corneum or remove hair;

(d) All adulterated chemical exfoliating/peeling substances; and

(e) Devices that penetrate beyond the stratum corneum of the epidermis.

4. "Cosmetic resurfacing exfoliating procedures" means the application of cosmetic resurfacing exfoliating substances by licensed practitioners for the purpose of improving the aesthetic appearance of the skin.

5. "Licensed practitioner" means a licensed cosmetologist or esthetician practicing in places of business licensed by the board.

6. "Microdermabrasion". The FDA lists microdermabrasion equipment as Class I devices intended for use by licensed practitioners trained in the appropriate use of such equipment. For purposes of this rule, microdermabrasion equipment is considered a cosmetic resurfacing exfoliating substance only if they are used in

## VOLUME 30, NUMBER 8 – FEBRUARY 1, 2004

a manner that is not intended to remove viable (living) skin below the stratum corneum.

### 7. Pre and postoperative procedures.

~~Section 2. A student of esthetics shall not receive less than 1,000 hours in clinical and theory class work with 350 minimum lecture hours for science and theory; fifty (50) hours of applicable Kentucky statutes and administrative regulations; and 600 hours minimum clinic and practice hours.~~

~~Section 3. A student of esthetics shall have completed 300 hours in clinical and related theory class before working and providing services on the general public. Clinical practice shall be on other students or mannequins.~~

~~Section 4. A school of cosmetology shall not be approved to provide an esthetics course or an annual renewal of a license unless the following curriculum is maintained and taught:~~

~~(1) Curriculum for beginning students:~~

~~(a) Theory and related theory class, 100 hours.~~

~~1. General theory, including applicable Kentucky statutes and administrative regulations and applicable federal requirements.~~

~~2. Clinical theory.~~

~~3. Scientific lecturing theory.~~

~~(b) Clinical and related theory class with clinical practice class on students or mannequins, 200 hours.~~

~~1. Skin analysis.~~

~~2. Esthetic practices.~~

~~3. Diseases and disorders of the skin.~~

~~4. Electricity and light therapy.~~

~~5. Sanitation and sterilization.~~

~~6. Basic facials.~~

~~7. Chemistry.~~

~~8. Color theory and makeup.~~

~~9. Introduction and safety of machines.~~

~~10. Procedures for arching by tweezing or waxing.~~

~~(2) The curriculum for students with more than 300 hours shall include theory and clinical practice as follows:~~

~~(a) Chemical peels—100 hours.~~

~~(b) Esthetic practices—175 hours~~

~~1. Consultation~~

~~2. Skin analysis~~

~~3. Facial and body treatments~~

~~4. Disorders and diseases of the skin~~

~~5. Electricity and light therapy.~~

~~6. Eyebrow arching by tweezing or waxing~~

~~7. Skin care machines—proper use and safety.~~

~~8. Techniques of massage.~~

~~9. Artificial eyelash application.~~

~~10. Lash and brow tinting.~~

~~(c) Facial and body procedures with and without machines including disincrustation, ionization, all skin types, acne, body wraps—125 hours.~~

~~(d) Makeup application and artistry including corrective and camouflage—fifty (50) hours.~~

~~(e) Removal of excess or unwanted hair by tweezing or waxing—twenty five (25) hours~~

~~(f) Beautifying or cleansing of the body with preparations, antiseptics, tonics, lotions or creams—twenty five (25) hours.~~

~~(g) Providing preoperative and postoperative skin care under the immediate supervision of a licensed physician—seventy five (75) hours.~~

~~(h) Salon management—twenty five (25) hours.~~

~~Section 5. Time not utilized in theory or clinic work and practice shall be used for study periods and library work to be counted toward the necessary number of hours to be completed as established in Sections 2, 3, and 4 of this administrative regulation.]~~

BEA COLLINS, Chairman

APPROVED BY AGENCY: November 12, 2003

FILED WITH LRC: November 12, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James

Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

## BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

### 201 KAR 12:100. Sanitation standards.

RELATES TO: KRS 317A.060, 317B.020(3) [~~KRS Chapter 317B Section 3(3)~~]

STATUTORY AUTHORITY: KRS 317A.130, 317B.020(3) [~~KRS Chapter 317B Section 3(3)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020(3) authorize [~~Chapter 317B authorizes~~] the Kentucky State Board of Hairdressers and Cosmetologists to regulate the practice of cosmetology, nail technology and esthetics in Kentucky and establish uniform standards for sanitation. This administrative regulation establishes sanitation standards for all facilities.

Section 1. (1) All establishments, and all [including] furniture, equipment, utensils, floors, walls, ceilings, restrooms and lavatories used in those establishments, shall be kept in a clean and sanitary condition.

(2) Clean towels or linens shall be provided for use of the patrons.

(3) The use in common of towels or linens of any type shall be prohibited.

Section 2. (1) Each student, apprentice cosmetologist, and cosmetologist shall have a sufficient number of combs and brushes at their disposal.

(2) Combs and brushes shall be sterilized after each use.

(3) A comb or brush shall not be used in common on any patron.

(4) Any article dropped on the floor shall be disinfected before being used again.

Section 3. All water supply and waste connections shall be constructed in conformity with the city, county, and state plumbing statutes, administrative regulations and code.

Section 4. A sufficient number of covered waste receptacles shall be provided in every establishment for disposal of trash and other waste.

Section 5. (1) A protective covering shall be placed around the patron's neck so the cape does not come into contact with the [nude] skin.

(2) The protective covering shall be discarded after each use.

Section 6. The Cabinet for Health Services [~~Human Resources~~] Department for Public Health [~~Services~~], has approved the following methods of disinfection.

(1) Dry disinfection. The use of Formalin, [and] ultraviolet rays, or any other dry disinfectant approved by the Cabinet for Health Services and EPA are considered acceptable methods of dry disinfection provided labels and manufacturer's directions are followed.

(2) Liquid disinfection.

(a) A ten (10) percent solution of Formalin shall be satisfactory for disinfection of all equipment. Formalin does not attack copper, nickel, zinc, or other metal substances.

(b) A seventy (70) percent solution of alcohol or bleach shall be an effective disinfectant for cleaning equipment.

(c) Any other liquid disinfectant approved by the Cabinet for Health Services [Human Resources] shall be acceptable, provided labels and manufacturer's directions are followed.

Section 7. Implements shall be disinfected and sanitized as follows:

(1) Remove all debris, dirt and foreign material;

(2) Wash implement with soap in warm water;



## VOLUME 30, NUMBER 8 – FEBRUARY 1, 2004

(3) Immerse implement in liquid disinfectant according to manufacturers direction;

(4) Air dry; and

(5) Place implement in dry sanitizer or autoclave.

Section 8. Use of brush rollers shall be prohibited in any establishment licensed by this board.

Section 9. [8-] (1) The following grading shall be used for the inspection of any salon or school of cosmetology: 100%-90% = A; 89%-80% = B; 79%-70% = C.

(2) Any standard of less than an "A" rating shall indicate failure to comply with the statutes and administrative regulations of the board.

BEA COLLINS, Chairman

DR. RICE C. LEACH, MD, Commissioner

APPROVED BY AGENCY: September 10, 2003

FILED WITH LRC: October 15, 2003 at 11 a.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

### BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

#### 201 KAR 12:101. Equipment sanitation.

RELATES TO: KRS 317A.130, 317B.020 [Section 3(3)]

STATUTORY AUTHORITY: KRS 317A.060, 317B.020 [Section 3(3)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 require the board to promulgate administrative regulations governing the operation of any cosmetology, nail technology and esthetics schools and salons and to protect the health and safety of the public. This administrative regulation establishes sanitation requirements for schools and salons. [Cosmetology schools, [and] beauty salons, nail salons and esthetic salons shall maintain standards of sanitation to protect the health and safety of the general public.]

Section 1. All implements, tools and equipment shall be cleaned and sterilized before using.

Section 2. Combs or brushes shall not be used on more than one (1) person without first cleaning and sterilizing.

Section 3. ~~[Individual towels, neckbands, or strips shall be placed upon the patron's neck before putting on the neck cloth or cape.] Towels, linens, bed and chair coverings shall be changed after each use.~~

Section 4. ~~[Clean towels, linens or tissues shall be placed on the headrest of each facial chair before giving a facial.]~~

Section 5. ~~[All instruments shall be kept in a closed sterilizing container when not in use.]~~

Section 5. [6-] All student kits shall contain an approved method of sterilization and shall be kept closed when not in use.

Section 6. [7-] All creams, lotions, tonics, shampoos, and other liquids shall be kept covered when not in use.

Section 7. [8-] Covered containers shall be supplied for disposal of waste.

Section 8. [9-] Floors, walls, furniture, and fixtures shall be kept clean at all times.

Section 9. [10-] All bowls and basins shall be kept clean at all times.

Section 10. [11-] All glass and other metallic electrodes shall be sterilized between patrons.

Section 11. (1) [12-] Treatment of any kind shall not be given to any person manifesting a physical sign of a suspected communicable disease except those excluded by the Americans with Disabilities Act without written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure.

(2) When a beauty salon or cosmetology school has reasonable cause to suspect the possibility of infection or disease transmission from a licensee or student, except those excluded by the Americans with Disabilities Act, it may require any or all of the following measures:

(a) The immediate exclusion of the licensee or student from the beauty salon or cosmetology school; and

(b) A written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure, [known to have an infectious or contagious disease of any nature. Persons having any infectious or contagious disease shall not operate or be permitted to remain in a beauty school.]

Section 12. [13-] All creams shall be removed from the container by a disposable spatula or sterile spoon and any unused cream remaining thereon shall not be replaced in the container or used on any other person.

Section 13. [14-] Any comb, brush, implement, or other instruments that are dropped on the floor shall be washed, disinfected and placed in a sterilizer.

Section 14. [15-] Combs, brushes, tweezers, shears, razors [razor], or other implements shall not be kept in the pockets of the students or licensees.

Section 15. [16-] Towels shall not be used more than once without being laundered. Towels intended for use on patrons shall not be dried [The drying of towels] on lines, radiators, or steam pipes used towels shall not be dipped [for use on patrons is prohibited. Dipping used towels] into a receptacle containing hot water and used [using the same] on patrons [is prohibited].

Section 16. [17-] Each licensed place of business shall provide an appropriate space in which to keep all linens sanitized.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

### BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

#### 201 KAR 12:115. School requirements for esthetics course.

RELATES TO: KRS 317B.025(6) [317B Section 4(6)]

STATUTORY AUTHORITY: KRS 317B.020 [317B Section 3(3)(c), (e), and (g)]

NECESSITY, FUNCTION AND CONFORMITY: KRS Chapter 317B requires the board to promulgate administrative regulations establishing standards for the operation of the schools and salons; establish the quality of equipment, supplies, materials, records, and furnishings required in esthetic salons or classrooms; and set the requirements for the proper education and training of students. This administrative regulation establishes those standards and requirements.

Section 1. A school of cosmetology shall not be approved to offer an esthetics course that does not provide and maintain the



following equipment and supplies:

(1) Has space of less than forty-eight (48) square feet in the clinical area for each student involved on the floor of the [said] clinical area at any one (1) time [A minimum clinic area of 4,000 square feet, soundproof], and separate from any other area of the school;

(2) A private changing area [separate from any other area of the school];

(3) A minimum of one (1) fully-equipped machine [five (5) fully equipped machines] in the clinic area [for every ten (10) students enrolled].

(4) A chair or stool in the clinic area for every student enrolled;

(5) A minimum of one (1) facial bed or facial chair per two (2) esthetic students enrolled [five (5) facial beds or facial chairs];

(6) A minimum of one (1) table or utility cart for every two (2) machines in the clinic area.

(7) One (1) [double] sink in the clinic area with hot and cold running water;

(8) One (1) steamer [Two (2) steamers] for hot towels;

(9) One (1) autoclave for sterilizing implements;

(10) A closed cabinet for clean towels and linens;

(11) A closed container for used towels and linens;

(12) One (1) covered waste container for every two (2) tables or carts;

(13) Supplies including[, but not limited to,] the following:

(a) Seventy (70) percent alcohol at every station.

(b) One (1) makeup station [for every two (2) students].

(c) Makeup for basic and camouflage application;

(d) [.] Emollients;

(e) [.] Moisturizers;

(f) [.] Powders;

(g) [.] Concealers;

(h) [.] Blushes;

(i) [.] Eye shadows;

(j) [.] Pencils;

(k) [.] Mascaras;

(l) [.] Lipsticks;

(m) [.] Brushes;

(n) [.] Disposable applicators;

(o) [.] Small scissors;

(p) [.] Tweezers;

(q) [.] Cotton swabs;

(r) [.] Tissues;

(s) [.] Eye lashes and adhesive;

(t) [.] Pencil sharpeners;

(u) [.] Makeup palette;

(v) [.] Stainless steel bowls;

(w) [.] Tongs;

(x) [.] Makeup remover;

(y) [.] Cleanser;

(z) [.] Mirrors;

(aa) [.] Hand disinfectant;

(bb) [.] Hospital grade disinfectant;

(cc) [.] Antiseptics;

(dd) [.] Sharps containers;

(ee) [.] Gloves;

(ff) [.] Dry sanitizer; and

(gg) [.] Comodon extractors.

Section 2. All cosmetology schools approved for an esthetics course shall have a separate room to be used for demonstration and study. The room shall include the necessary charts, visual aids, blackboard, and other equipment to carry out the curriculum.

Section 3. A cosmetology school approved to offer an esthetic course shall maintain a ratio of one (1) esthetic instructor or cosmetology/esthetic instructor for every twenty (20) [ten (10)] students enrolled in an esthetics course, and this ratio shall [must] be maintained at all times. [An instructor teaching an esthetics course shall not teach a cosmetology course at the same time. Esthetic students may not cross into the cosmetology area of the school during school hours.]

BEA COLLINS, Chairman

APPROVED BY AGENCY: November 12, 2003

FILED WITH LRC: November 12, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS**  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:120. School faculty.

RELATES TO: KRS 317A.020(5), 317A.060(1), 317A.090 [317A.040], 317B.025(4) [317B-Section-4(4)]

STATUTORY AUTHORITY: KRS 317A.060(1) [317A.050, 317A.090], 317B.020 [317B-Section-3(3)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 and 317B.020 authorize the board to promulgate administrative regulations relating to the activities and responsibilities of instructors and apprentice instructors. This administrative regulation establishes the standards that shall be met by instructors and apprentice instructors. [All instructors and apprentice instructors shall hold the appropriate license and provide adequate supervision and instruction to students.]

Section 1. Any person employed by a school for the purpose of managing, teaching and instruction, shall be licensed as a cosmetologist instructor or esthetic instructor. Each licensed instructor or apprentice instructor shall keep a personal [their] photograph posted with his or her [their] license.

Section 2. All students shall be under the immediate supervision of a licensed instructor during all classes and study hours and practical student work.

Section 3. A licensed cosmetologist, nail technician or esthetician shall not render services in a school. Instructors and apprentice instructors shall render services only incidental to and for the purpose of instruction.

Section 4. Every instructor and apprentice instructor employed in a school of cosmetology shall devote their entire time during the school hours to that of instructing the students and shall not apply his or her time to that of private or public practice for compensation during school hours or permit students to instruct or teach other students in the absence of a teacher.

Section 5. Teaching by demonstrators shall be prohibited [strictly forbidden], except that properly qualified licensed individuals [operators] may demonstrate to the students new processes, new preparations, and new appliances in the presence of licensed instructors [teachers]. A demonstration may only take place in a licensed school. Schools shall not permit more than one (1) demonstration in any calendar month.

Section 6. All services rendered in a school on patrons shall be done by students only. Instructors shall be allowed to teach and aid the students in performing the various services.

Section 7. Instructors and apprentice instructors in attendance shall, at all times, wear a clean, washable uniform, and an insignia or badge indicating they are an instructor or apprentice instructor in the school.

Section 8. Each school of cosmetology shall, within five (5) days after the termination, employment or other change in faculty personnel, notify the board of that [such] change.

Section 9. Schools enrolling an apprentice instructor shall maintain the following ratio: one (1) apprentice instructor to one (1) instructor.

Section 10. The following minimum faculty to student ratio

shall [must] be maintained at all times:

(a) One (1) instructor for every twenty (20) cosmetology students enrolled, which includes nail technician students; and

(b) One (1) instructor for every twenty (20) [ten (10)] esthetician students enrolled.

BEA COLLINS, Chairman

APPROVED BY AGENCY: November 12, 2003

FILED WITH LRC: November 12, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

# BOARD OF HAIRDRESSERS AND COSMETOLOGISTS

(As Amended at ARRS, January 13, 2004)

201 KAR 12:125. Schools' student administrative regulations.

RELATES TO: KRS 317A.090, 317B.020(3)(b), (c), (d), (f), (g), (i) [317B Section 4(1)(d)]

STATUTORY AUTHORITY: KRS 317A.060, 317B.020(2)(b), (c), (d), (f), (g), (i) [317B Section 3(3)(f), (g), (i)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.090 and 317B.020 authorize the board to protect the health and safety of the public and to protect the general public and students enrolled in schools of cosmetology against misrepresentation, deceit, or fraud while seeking services or while enrolled. This administrative regulation establishes requirements for students and requirements for schools regarding students.

Section 1. A student [Students] enrolled in a school of cosmetology shall not be permitted to receive a salary or commission from the school while enrolled as a student in the school.

Section 2. A student [Students] shall not be permitted to smoke while providing services to patrons.

Section 3. A student [Students] shall not be allowed to remain in the school to work on patrons upon completion of the required hours for the appropriate course of enrollment.

Section 4. After graduation from school, a student shall not be allowed to return to that school or any other school for further practice or [and] work in the pay departments without permission of the board.

Section 5. A school [Schools] shall, at all times, display in a centralized conspicuous place the enrollment permits of all students enrolled [therein].

Section 6. A school [Schools] shall require a student [students] to wear some kind of insignia, badge, cap, or marking on his or her [their] uniforms to indicate that he or she is [they are] [he or she is] a student in the school.

Section 7. A school [Schools] shall require students to [-at all times,] wear a clean washable uniform, coat, or smock while on school premises.

Section 8. A student [Students] shall be on time for all class studies and work.

Section 9. A student [Students] shall not be permitted to leave during school hours without special permission from the manager.

Section 10. A student [Students] shall not be permitted to leave a class during a lecture or demonstration without permission from the instructor.

Section 11. A student shall not be [Students are not] permitted to operate any equipment in which there is a known [an] oper-

ating hazard.

Section 12. All student kits containing all equipment, tools, and implements shall remain on school premises until completion of the course of enrollment or the student's withdrawal from the school.

Section 13. A student desiring to change from one (1) school to another shall notify the school in which the student is presently enrolled of the student's [their] withdrawal and shall complete an application for enrollment when entering another school.

Section 14. A student [Students] shall be required to comply with the rules of his or her [their] school, as long as those rules [they] do not conflict with KRS Chapter 317A or the administrative regulations of the board.

Section 15. An owner of a school [Owners of schools] shall include the school's [schools'] refund policy in school-student contracts.

Section 16. Each student in a school shall be permitted to file a complaint with this board concerning the school in which the student is [they are] enrolled, provided the information is clearly and concisely given and the complaint shall at all times be signed by the complainant.

Section 17. Student Dismissal and Appeals. (1) A school [Schools] may dismiss a student [students] for law violations, rule violations, insubordination, or for any reason for which the board could deny, refuse to renew or revoke a license if the student was [students were] licensed pursuant to KRS Chapter 317A.

(2) A school [Schools] may dismiss a student for a violation [students for violations] of any of KRS Chapter 317A or for the violation of any administrative regulation adopted by the board or for violation of any school rule not in conflict with KRS Chapter 317A or the administrative regulations [said chapter or the board rules].

(3) Any student aggrieved by dismissal from a school may appeal to the board by writing the board and requesting that an appeal be granted, but the appeal shall be taken within ten (10) days after the date of dismissal and the [such] appeal shall be docketed by the board for a hearing within thirty (30) days after the appeal request is received. The hearing day shall be set for as early a day as possible. The hearing and production of evidence shall be in conformity with that provided for board hearings in KRS Chapters 317A and 317B.

(a) Upon hearing the appeal, the board shall determine: whether the school acted within the scope of its power; and whether or not there is sufficient evidence to support the order of dismissal appeal from the school.

(b) After the hearing the board shall enter an order sustaining or setting aside the school's order of dismissal. If the order of dismissal is overruled and set aside by the board, then the school shall reinstate the student.

Section 18. Within ten (10) working days from a student's withdrawal, a cosmetology school shall report the name of the withdrawing student and send the permit card and a notarized certification of the total number of hours that the withdrawing student has acquired in the [their] cosmetology school to the board's office.

Section 19. In the event that the school after receiving request for the information outlined in Section 18 of this administrative regulation does not forward that information [same] to the board within ten (10) days after receiving requests, a verified affidavit from the student as to the number of hours received may be accepted by the board and entered on their records as the appropriate number of hours earned.

Section 20. (1) A training period for students shall be as follows: eight (8) hours per day, forty (40) hours per week (maximum).

(2) A student of cosmetology shall have a minimum of 225 days of school attendance under instruction.

(3) A student of nail technology [manicuring] shall have a

## VOLUME 30, NUMBER 8 – FEBRUARY 1, 2004

minimum of ~~seventy-five (75) (thirty-seven and one-half (37 1/2))~~ days of school attendance under instruction.

(4) A student of esthetics shall have a minimum of 125 days of school attendance under instruction.

Section 21. A student [All students] shall be allowed thirty (30) minutes toward the middle of any eight (8) hour day for eating or taking a rest break. A student [Students] shall not be given credit for the one-half (1/2) hour break toward meeting the 1,800 hour requirement.

Section 22. An informational copy of the statutes and administrative regulations of the Kentucky Board of Hairdressers and Cosmetologists shall be provided to each student enrolled in a school of cosmetology. Copies may be obtained from the board's office.

Section 23. A student [Students] shall not be in attendance in a school of cosmetology more than eight (8) hours in one (1) day and no more than five (5) days in one (1) week.

Section 24. A person [Persons] completing hours in a school of cosmetology within a period of five (5) years from date of enrollment shall be given credit by the board for hours completed. Any extension of this period of time may be granted at the discretion of the board.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

### BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

#### 201 KAR 12:140. School equipment.

RELATES TO: KRS 317A.050(7)(a), 317A.060(1)(b), 317B.020(3)(e), 317B.025(6), [317B Section 4(6)]

STATUTORY AUTHORITY: KRS 317A.060, 317A.090, 317B.020(3)(e) [317B Section 3(3)(e)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.050(7)(a) and 317B.025(6) require cosmetology and esthetics schools to meet the requirements established in administrative regulations relating to equipment, supplies, and facilities. This administrative regulation establishes the requirements for equipment, supplies, and space for instruction that are necessary for cosmetology and esthetics schools. [Sufficient implements, equipment, supplies, and space for instruction is necessary to assure proper teaching and training for students.]

Section 1. (1) A licensed school of cosmetology shall have the following equipment:

(a) Shampoo bowls;

(b) Facial chairs;

(c) Dryers;

(d) Manicure tables;

(e) Styling chairs;

(f) Curling irons;

(g) Facial supplies;

(h) Covered containers for:

1. Hairpins;

2. Clips; and

3. Rollers;

(i) Mannequins for use in practicing:

1. Iron curling;

2. Finger waving; and

3. Other related subjects; and

(j) Necessary supplies including:

1. Shampoos;

2. Color preparations;

3. Permanent waves;

4. Cosmetics; and

5. Manicuring equipment.

(2) All equipment and supplies shall be available for student use and practice.

(3) A licensed school offering an esthetics course shall meet the requirements of 201 KAR 12:115. [No school of cosmetology shall be licensed by this board having less than the following equipment: Shampoo bowls, facial chairs, dryers, manicure tables, styling chairs, curling irons, facial supplies, covered containers for hairpins, clips and rollers, covered waste containers, sufficient mannequins for use in practicing iron curling, finger waving, and other related subjects, equipment and supplies for sanitation and sterilization; necessary supplies including, but not limited to: shampoos, color preparations, permanent waves, cosmetics, and manicuring equipment. All equipment and supplies shall be available for student use and practice.]

(2) No school of cosmetology shall offer an esthetics course unless the requirements as set by 201 KAR 12:115 are met.]

Section 2. A school [Schools] shall be located as to be entirely separated and shall not have a [have no] connection with any beauty salon or barber shop, or any other place of business.

Section 3. A school shall not be approved and shall not operate if it: [No school shall be approved, nor after approval, shall be permitted to operate by this board if it:]

(1) Has space of less than thirty-six (36) square feet in the clinical area for each student involved on the floor of the [said] clinical area at any one (1) time; [-];

(2) Has a space less than eighteen (18) square feet in the mannequin area for each student involved on the floor of the [said] mannequin area at any one (1) time; and [-];

(3) [And] Does not have a reasonable amount of area allotted for training of students in all areas other than those previously mentioned.

Section 4. All schools licensed by this board shall have a separate room to be used for demonstration and study. This room shall [-said room to] have necessary charts and equipment to carry out the curriculum. This room shall also contain a blackboard, charts relating to the curriculum, classroom chairs with armrests, or desks for students' use.

Section 5. Every school shall maintain a separate lavatory and toilet for male and female students.

Section 6. Lockers shall be provided by the schools for student use.

Section 7. Booths or partitions in the work department shall be sufficiently low to permit observation of students while they are working.

Section 8. Every school shall have a reference library composed of[-, but not limited to:] the books recommended and set forth in the administrative regulations as well as any other literature and materials pertinent to the teaching and study of cosmetology, including the informational copy of the Kentucky State Board of Hairdressers and Cosmetologists statutes and administrative regulations.

Section 9. (1) Each school of cosmetology shall furnish a supply or dispensing room in which each student shall obtain actual experience for a period of time as indicated by the course of instruction.

(2) The supply room shall contain the following:

(a) A supply of clean towels or linens;

(b) A lavatory, or sink;

(c) Bottles and containers distinctly and correctly labeled;

(d) A large wet sterilizer;

(e) A large dry sterilizer;

**(f) Soap;**

**(g) Covered waste containers;**

**(h) Closed storage space for supply of clean towels or linens;**

**(i) Covered containers for used towels or linens;**

**(j) A stove;**

**(k) Pressing combs;**

**(l) Irons; and**

**(m) All other solutions, and preparations used.** [Said room shall contain: supply of clean towels or linens, lavatory, or sink, bottles and containers distinctly and correctly labeled, large wet sterilizer, large dry sterilizer, soap, covered waste containers, closed storage space for supply of clean towels or linens, covered containers for used towels or linens, stove, pressing combs, irons, all other solutions, and preparations used.]

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS  
(As Amended at ARRS, January 13, 2004)**

**201 KAR 12:150. School records.**

RELATES TO: KRS 317A.060(1) [317A.090]

STATUTORY AUTHORITY: KRS 317A.060 [317A.050]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 authorizes the board to promulgate administrative regulations to set standards for the operation of schools and to protect the students. This administrative regulation establishes the requirements relating to the records kept, the retention requirements, and the information that is to be forwarded to the board. [Schools shall keep records of students' attendance and progress.]

Section 1. A daily record of the attendance of the enrollment, including full-time, and part-time students and apprentice instructors shall be kept by the schools and shall [in such a manner as to] be available to the employees of the state board or to the members of the state board at all times.

Section 2. A school [Schools] shall keep daily records, approved and signed by the instructor, showing practical work and work performed on clinic patrons. Those [Said] records shall be available to the employees of the state board or to the members of the state board at all times.

Section 3. A detailed record shall be kept of all enrollments, withdrawals and dismissals.

Section 4. All records shall be kept in a lockable fireproof file on the premises of the school and shall be available for inspection by the state board or its employees during hours of operation.

Section 5. The student permit and certification of hours completed shall be forwarded to the office of the board within ten (10) working days of the date of the students' withdrawal, dismissal, [of] completion, or closure of the cosmetology school [of 1,800 hours].

Section 6. A cosmetology school shall [Cosmetology schools will] be held fully responsible for the completeness, accuracy, and mailing or delivery to the state board office no later than the 10th of each month on forms that are incorporated by reference in 201 KAR 12:082 [supplied by the board] showing the total hours obtained for the previous month and the total accumulated hours to date for students enrolled. Only the hours recorded shall be submitted each month and that [such] report shall not be amended without satisfactory proof of error.

Section 7. A copy of the students' hours, provided to the office of the board, shall be posted monthly on a bulletin board in the school to be available to the students and employees or agents of the board.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

**BOARD OF HAIRDRESSERS AND COSMETOLOGISTS  
(As Amended at ARRS, January 13, 2004)**

**201 KAR 12:200. Requirements for continuing education for renewal of license.**

RELATES TO: KRS 317A.050(8), 317B.030(1) [317B-Section 5(4)]

STATUTORY AUTHORITY: KRS 317A.050(8), 317B.030(1) [317B-Section 5(4)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.050(8) requires a cosmetologist, cosmetology instructor or nail technician to provide proof of continuing education for renewal of license as determined by the board by promulgation of an administrative regulation. KRS Chapter 317B Section 5(1) requires an esthetician and esthetic instructor to provide proof of continuing education for renewal of license. This administrative regulation establishes the requirements for sponsoring a continuing education program and for providing proof of attendance at a continuing education program.

Section 1. A sponsor of a continuing education program shall submit a completed "Application for Approval of Continuing Education Program" form to request approval from the board for a program. The application form shall:

- (1) Include the;
  - (a) Title of the program;
  - (b) Name, address, and telephone number of the sponsoring organization or individual;
  - (c) Number of clock hours for which approval is requested;
  - (d) Cost of the program to the attendee;
  - (e) The program's date, location, and time;
  - (f) Objective of the program;
  - (g) Name of the instructor;
  - (h) Manner of presentation to indicate whether the program is

a:

1. Lecture;
2. Demonstration;
3. Panel; or
4. Hands-on participation program; and
- (i) Plan for program evaluation;
- (2) Be signed by the sponsor to indicate that the sponsor agrees to:
  - (a) Accurately record attendance at each presentation;
  - (b) Complete a record of attendance confirming the number of clock hours actually attended for each attendee; and
  - (c) Submit a list of attendees within thirty (30) days after the program to the board office; and
  - (3) Be accompanied by a copy of the:
    - (a) Promotional advertisement for the program;
    - (b) Instructor's biography and list of credentials;
    - (c) Course outline; and
    - (d) Evaluation sheet.

Section 2. An application for approval of a continuing education program shall be submitted to the office of the board at least sixty (60) days prior to the starting date of the program. The board shall approve or deny the request in writing within thirty (30) days of receipt of the application by the board.

Section 3. (1) The program shall consist of an organized program of learning which:

- (a) Contributes directly to the competency of the licensee;
- (b) Pertains to subjects related to the theory, management and practice of cosmetology, ~~and~~ nail technology, ~~or~~ esthetics; and
- (c) Pertains to the health, safety, welfare, and protection of the public including sanitation, sterilization, chemical waste disposal, safety in the work place, first aid, bloodborne pathogens, airborne pathogens, and HIV/AIDS education.

(2) A program that meets the requirements established in subsection (1) of this section shall be approved by the board if it is provided by:

- (a) An American Red Cross Chapter;
- (b) ~~The American Heart Association;~~
- (c) ~~The Cabinet for Health Services;~~
- (d) ~~The Kentucky Labor Cabinet, Division of Education and Training; or~~
- (e) ~~The Kentucky State Board of Nursing.~~

(3) A program shall be limited to a class size appropriate to the classroom or facility.

Section 4. A program shall specify the course objectives, content, prerequisites, requirements, and the number of continuing education hours to be earned. The information shall be specified in all promotional materials.

Section 5. A program shall:

- (1) Be generic product related; and
- (2) Not be used to promote, sell or advertise a product.

Section 6. (1) A sponsor shall be:

- (a) A private or vocational technical school ~~[schools]~~ of cosmetology;
- (b) An association or organization whose membership consists of licensees of the board;
- (c) A college, university, or other institution of higher education recognized by the Kentucky Council on Postsecondary Education or the Kentucky Community College, Trade and Technical Schools ~~[Higher Education]~~;
- (d) An individual who:
  - 1. Holds an active cosmetologist license, instructor of cosmetology license or nail technicians license; and
  - 2. Has special education, training and experience in cosmetology;
- (e) A person who has a license, degree, special education, training or experience relating to the subject matter of the program; or
- (f) A state agency program;

(2)(a) A manufacturer or distributor product show shall not be approved as a continuing education program.

(b) A manufacturer or distributor product class shall be approved if the requirements established in this administrative regulation are met.

(c) Alcoholic beverages shall not be served, sold or consumed in the classroom.

Section 7. Academic Coursework. Successful completion of one (1) three (3) hour course shall satisfy the continuing education requirement established by KRS 317A.050(8) if the:

- (1) Course is completed within the license renewal period;
- (2) Course is relevant. A course shall be considered relevant if the course:
  - (a) Is biology, chemistry, psychology, health science, or business; or
  - (b) Relates to the practice of the licensee; and
- (3) Licensee submits an original transcript with the seal of the college or university affixed with the application for license renewal.

Section 8. The board may monitor or review a continuing education program approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may withdraw approval of the hours granted to the program.

Section 9. (1) In order to receive credit for attendance at a program, a licensee shall:

- (a) Complete a "Record of Attendance for Continuing Education Credit" form at the end of the program;
- (b) Submit one (1) copy of the form to the program's registration desk at the end of the program; and
- (c) Submit one (1) copy of the form with the licensee's renewal application.

(2) The form shall indicate the:

- (a) Program title;
- (b) Name of the sponsoring organization or individual;
- (c) Date, location, and number of hours of the program; and
- (d) Licensee's:
  - 1. Name;
  - 2. Address;
  - 3. Phone number; and
  - 4.a. Social Security number; or
  - b. License number.

Section 10. (1) A cosmetologist or nail technician ~~[Cosmetologists or nail technicians]~~ [A licensee] not currently working in a salon may choose to let his or her ~~[their licenses]~~ [his license] expire and may restore that license ~~[said licenses]~~ [his license] within five (5) years by obtaining six (6) hours of continuing education and paying a restoration fee of fifty (50) dollars in accordance with KRS 317A.050, Section 11.

(2) A licensed esthetician ~~[Licensed estheticians]~~ not currently working in a salon ~~[salons]~~ may choose to let his or her ~~[their licenses]~~ [his license] expire and may restore that license ~~[said licenses]~~ [his license] within five (5) years by obtaining the required continuing education and paying the restoration fee set in 201 KAR 12:220.

Section 11. Incorporation by Reference. (1) The following material is ~~[forms are]~~ incorporated by reference:

(a) "Application for Approval of Continuing Education Program" (September 13, 1996 edition) ~~[Kentucky State Board of Hairdressers and Cosmetologists]~~; and

(b) "Record of Attendance for Continuing Education Credit" (September 13, 1996 edition) ~~[Kentucky State Board of Hairdressers and Cosmetologists]~~.

(2) These forms may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A [314 West Second Street], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

# BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

201 KAR 12:210. Requirements for continuing education; active and inactive license and temporary waiver of requirements.

RELATES TO: KRS 317A.050(8), (9), 317B.030(1) ~~[317B Section 5(4)]~~

STATUTORY AUTHORITY: KRS 317A.050(8), 317B.030(1) ~~[317B Section 5(4)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.050(8) requires a cosmetologist, cosmetology instructor, or nail technician to provide proof of continuing education for renewal of license as determined by the board by promulgation of an administrative regulation. KRS 317B.030(1) ~~[Chapter 317B Section 5(4)]~~ requires an esthetician and esthetic instructor to provide proof of continuing education for renewal of a license as determined by the board by promulgation of an administrative regulation. This

administrative regulation establishes requirements for continuing education for a licensee with an active or inactive license and for a temporary waiver of the requirements.

Section 1. Definition. "Continuing education hour" means a fifty (50) minute period excluding each meal or break.

Section 2. A person newly licensed during the license renewal period shall not be required to complete continuing education as a prerequisite for the first renewal of his license.

Section 3. Continuing education hours exceeding the amount required shall not be carried forward to the next years' requirements.

Section 4. A licensee shall not receive credit for a class repeated within the same licensing year.

Section 5. Inactive Status. (1) A licensee not working in a beauty salon, nail salon, esthetic salon, school of cosmetology or actively engaged in the practice or teaching of cosmetology ~~or on or after July 15, 1996,~~ may request inactive status. The request for inactive status shall be in writing.

(2) Inactive status shall be granted if the licensee pays the renewal fee established in KRS 317A.050(9) for a cosmetologist, nail technician, or cosmetology instructor and the renewal fee required by 201 KAR 12:220 for an esthetician or esthetics instructor.

(3) Inactive status may be applied for, in writing, during the licensure year if the licensee holds a license which is not expired, revoked or suspended.

(4) A licensee requesting inactive status shall not be required to attend continuing education courses.

(5) A licensee on inactive status shall not engage in the practice of cosmetology, nail technology, esthetics or teaching of cosmetology or esthetics.

(6) The inactive license shall be renewed in accordance with the requirements established in KRS 317A.050(8) and 317B.030 [KRS Chapter 317B Section 5].

(7) Before a license is changed from inactive to active status, the licensee shall provide proof that, within the one (1) year period immediately preceding the [his] request to change the status, the licensee [he] has completed:

(a) ~~[If he is a cosmetologist or nail technician,]~~ Six (6) hours of continuing education as required by KRS 317A.050(8), if the licensee is a cosmetologist or nail technician; ~~or~~

(b) ~~[If he is a cosmetology instructor,]~~ Eight (8) hours of continuing education as required by KRS 317A.050(8), if the licensee is a cosmetology instructor;

(c) Six (6) hours of continuing education as required by KRS 317B.030(1)(a) ~~[Chapter 317B Section 5(1)(a)],~~ if the licensee is an esthetician or dual esthetician/cosmetologist.

(d) Eight (8) hours of continuing education as required by KRS 317B.030(1)(b) ~~[Chapter 317B Section 5(1)(b)],~~ if the licensee is an esthetic instructor or dual esthetic/cosmetology instructor.

(8) A licensee actively engaged in the practice of cosmetology, nail technology, esthetics, instructor of esthetics or instructor of cosmetology who cannot meet the requirements for continuing education for renewal due to temporary disability, undue hardship, or personal or spouse's military duty, may request a waiver or extension of time to complete a continuing education course. A request for waiver shall be submitted, in writing, and include a detailed statement describing the reasons for the request. A waiver may be granted by the board not to exceed one (1) year. If the circumstance of the waiver exceeds one (1) year, the licensee shall reapply, in writing, for an extension of the waiver.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 11, 2003 at 3 p.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

BOARD OF HAIRDRESSERS AND COSMETOLOGISTS  
(As Amended at ARRS, January 13, 2004)

201 KAR 12:220. Esthetic fee requirements.

RELATES TO: KRS 317B.025, 317B.030, 317B.040 [317B]

STATUTORY AUTHORITY: KRS 317B.020(3)(l) [317B Section 3(3)(l)]

NECESSITY, FUNCTION AND CONFORMITY: KRS 317A.025 requires the board to establish fees for esthetician, dual licensure as a cosmetologist/esthetician, esthetic salon, esthetic instructor, renewal, and examination. KRS 317B.030 requires the establishment of restoration fees. KRS 317.040 requires the establishment of a fee for reciprocal licensing. KRS 317B.020(3)(l) authorizes the board to establish fees required under KRS Chapter 317B. This administrative regulation establishes all fees required pursuant to KRS Chapter 317B. [KRS 317B Section 3(3)(1) requires the board to establish fees required pursuant to Sections 1 to 11 of the Act.]

Section 1. The initial license fee for each type of license listed shall be as follows:

- (1) Esthetician - seventy-five (75) dollars;
- (2) Dual esthetician/cosmetologist - \$100;
- (3) Esthetic instructor - \$100;
- (4) Dual esthetic/cosmetology instructor - \$150;
- (5) Esthetic salon - \$125; and
- (6) Esthetic independent contractor - \$125.

Section 2. The annual renewal license fee for each type of license renewal shall be as follows:

- (1) Esthetician - fifty (50) dollars;
- (2) Dual esthetician/cosmetologist - seventy (70) dollars;
- (3) Esthetic instructor - seventy-five (75) dollars
- (4) Dual esthetic/cosmetology instructor - \$110;
- (5) Esthetic salon - seventy-five (75) dollars; and
- (6) Esthetic independent contractor - seventy five (75) dollars.

Section 3. Applications for examination required by KRS Chapter 317B shall be accompanied by an examination fee as follows:

- (1) Esthetician - \$125;
- (2) Out-of-state esthetician - \$175;
- (3) Out-of-state esthetic instructor - \$250; and
- (4) Dual esthetic/cosmetology instructor - \$125.

Section 4. Licensure Restoration. (1) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration shall be as follows:

- (a) Esthetician - \$125;
- (b) Dual esthetician/cosmetologist - \$140;
- (c) Esthetic instructor - \$150;
- (d) Dual esthetic/cosmetology instructor - \$220;
- (e) Esthetic salon - \$150;
- (f) Esthetic independent contractor - \$150; and

(2) The continuing education requirement for restoration shall be as follows:

(a) An esthetician or dual esthetician/cosmetologist shall obtain six (6) hours of continuing education; and

(b) An esthetic instructor or dual esthetic/cosmetology instructor shall obtain eight (8) hours of continuing education. [The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:

- (1) Esthetician—\$100 per year for every year of expiration or portion thereof;
- (2) Dual esthetician/cosmetologist—\$140 per year for every year of expiration or portion thereof;
- (3) Esthetic instructor—\$150 per year for every year of expiration or portion thereof;
- (4) Dual esthetic/cosmetology instructor—\$220 per year for every year of expiration or portion thereof;
- (5) Esthetic salon—\$150 per year for every year of expiration



or portion thereof;

(6) ~~Esthetic independent contractor \$150 per year for every year of expiration or portion thereof; and~~

(7) ~~An esthetician or dual esthetician/cosmetologist must obtain six (6) hours of continuing education for every year of expiration or portion thereof; and, an esthetic instructor or dual esthetic/cosmetology instructor must obtain eight (8) hours of continuing education for every year of expiration or portion thereof.]~~

Section 5. The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:

(1) Estheticians shall retake and pass the written and practical examination;

(2) Dual esthetician/cosmetologist shall retake and pass a written and practical examination.

(3) Esthetic instructor shall retake and pass both the practical and written examination;

(4) Dual esthetic/cosmetology instructor shall retake and pass a written and practical examination prescribed by the board; and

(5) The appropriate restoration fee as set forth in this administrative regulation shall be required.

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003.

FILED WITH LRC: September 12, 2003 at 11 a.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

# BOARD OF HAIRDRESSERS AND COSMETOLOGISTS (As Amended at ARRS, January 13, 2004)

## 201 KAR 12:230. Code of ethics.

RELATES TO: KRS 317B.020(3)(k) [347B Section 3(3)(k)]

STATUTORY AUTHORITY: KRS 317B.020(3)(k) [347B Section 3(3)(k)]

NECESSITY, FUNCTION AND CONFORMITY: KRS 317B.020(3)(k) [Chapter 347B Section 3(3)(k)] requires the board to establish a code of ethics for persons licensed by the board. This administrative regulation establishes the required code of ethics.

### Section 1. A licensee shall:

(1) Provide competent professional services to the consumer;

(2) Wear a lab coat or smock with an insignia or badge indicating the licensee's name and the designation as a licensed esthetician;

(3) Provide a clear explanation of the services offered and the cost of those services;

(4) Follow appropriate disinfection and sanitation requirements as established in KRS Chapter 317B and the administrative regulations promulgated thereunder;

(5) Follow proper health profile procedures before application of the product;

(6) Perform a thorough skin evaluation and consultation for each client to determine if the procedure or product is appropriate before application;

(7) Discuss and outline realistic expectations with the client after the evaluation; and

(8) Treat all clients with courtesy and respect. [Any practitioner of esthetics shall provide competent professional services to the consumer, always identifying themselves by wearing a lab coat or smock with an insignia or badge indicating their name and that they are an esthetician; provide clear explanation of the services offered and the cost for the services to the consumer.

### Section 2. The practitioner of esthetics shall:

(1) ~~Practice appropriate disinfection and sanitation as established by the statutes and administrative regulations of the board.~~

(2) ~~Follow proper health profile procedures before application of the product.~~

(3) ~~Perform a thorough skin evaluation and consultation for each client to determine if the procedure or product is appropriate before application. After the appropriate client evaluation, the esthetician shall discuss and outline realistic expectations with the client.~~

~~Section 3. The practitioner of esthetics shall treat all clients with courtesy and respect.]~~

BEA COLLINS, Chairman

APPROVED BY AGENCY: September 9, 2003

FILED WITH LRC: September 12, 2003 at 11 a.m.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, phone (502) 564-4262, fax (502) 564-0481.

# KENTUCKY STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS (As Amended at ARRS, January 13, 2004)

## 201 KAR 18:220. Administrative hearings.

RELATES TO: KRS Chapter 13B, 322.290(4)

STATUTORY AUTHORITY: KRS 13B.170(1), 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(4) authorizes the board to promulgate administrative regulations to carry out the conduct of proceedings before it. KRS 13B.170(1) authorizes the board to promulgate administrative regulations necessary to carry out the provisions of that chapter. This administrative regulation establishes procedural guidelines for administrative hearings as authorized by KRS 322.290(4) and [required under KRS Chapter 322.190(4) and permitted under] KRS 13B.170(1).

Section 1. Definitions. (1) "Action" means a charge brought under this administrative regulation and KRS Chapter 13B.

(2) "Board" means the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors.

(3) "Charge" means a written accusation filed with the division by the board alleging a violation by a licensee.

(4) "Complaint" means a factual statement made by any person or organization to the board alleging a possible violation of KRS Chapter 322 or any administrative regulation adopted by the board. ~~[No complaint shall be deemed a charge under KRS 322.200 until the complaint has been investigated and the investigation review committee has determined that there is evidence to support a charge.]~~

(5) "Consent decree" means an order entered by the board with the agreement of a respondent. ~~[If a charge has been filed, a consent decree entered by the board is a final order as used in KRS Chapter 13B. No proposed consent decree is binding on the parties until approved by the board.]~~

(6) "Default" means a failure of a respondent to file an answer to a charge, to attend or participate in a prehearing conference, hearing or other stage of the administrative hearing process, or to comply with the orders of a hearing officer.

(7) "Division" is defined by KRS 13B.010(8) [means the Office of the Attorney General, Division of Administrative Hearings].

(8) "Final order" is defined by KRS 13B.010(6) [means a final order as used in KRS Chapter 13B].

(9) "Hearing officer" is defined by KRS 13B.010(7) [means a hearing officer as defined in KRS Chapter 13B].

(10) "Licensee" means an individual or business entity licensed to practice engineering or land surveying in this Commonwealth under KRS 322.040 or 322.060.

(11) "Notice" means a notice of administrative hearing satisfying the requirements of KRS 13B.050(3).

(12) "Investigation review committee" means a committee formed to determine whether there is evidence to support a charge and [the investigation review committee] shall consist of the ex-

executive director and two (2) board members appointed by chairman of the board in consultation with the executive director.

(13) "Respondent" means a licensee concerning whom the investigation review committee has determined that there is sufficient evidence to support a charge.

(14) "Settlement conference" means a conference between board staff and a respondent and his attorney, if any, to attempt to resolve matters raised in a complaint or charge.

(15) "Violation" means any act or failure to act that is in conflict with any provision of KRS Chapter 322 or any administrative regulation adopted by the board.

Section 2. Complaints. (1) A complaint shall be in writing, be signed by the complainant and shall allege facts showing why the complainant believes that a violation has occurred.

(2) An investigation shall be made of every complaint. However, if it appears to the executive director that no violation has occurred even if the alleged facts are true, no investigation shall be conducted and the complainant shall be notified of his decision.

(3) An investigation may be made without the receipt of a complaint when information within the knowledge of the board or board staff indicates that a violation may have been committed.

(4) The investigative report shall be submitted to the investigation review committee.

(5) If the investigation review committee determines that there is not sufficient [no] evidence to support a charge, the matter shall be closed and the complainant notified of the decision.

(6)(a) If the investigation review committee finds sufficient evidence to support a charge, the committee may direct board staff to attempt to resolve the complaint in a settlement conference,

(b) if a [but if no] settlement is not reached, the committee shall [then] cause a charge or charges to be filed.

(c) The investigation review committee may recommend non-bonding terms for negotiation at a settlement conference.

Section 3. Charges. (1) Charges shall be in plain language in the pleading form used in the circuit courts of this Commonwealth and signed by the general counsel.

(2) A complaint shall not be deemed a charge under KRS 322.200 until the complaint has been investigated and the investigation review committee has determined that there is sufficient evidence to support a charge.

Section 4. Actions. (1) An action is commenced by sending notice and a copy of the charges to the licensee's address on file with the board, with a copy to the division, consistent with the provision of KRS Chapter 13B.

(2) The board shall file proof of notice with the hearing officer.

Section 5. Within twenty (20) days of notice, a respondent shall file an answer with the board and with the hearing officer.

Section 6. Defaults. (1) A default shall be deemed a confession of all material allegations contained in the charge.

(2) Upon default, the hearing officer shall proceed under KRS 13B.080(6).

Section 7. Prehearing Conference. (1) When a hearing officer schedules a prehearing conference and no settlement conference has been conducted, the hearing officer shall direct the parties to meet at the board office one (1) hour prior to the scheduled prehearing conference for a settlement conference.

(2) If a settlement is reached, the hearing officer shall adjourn the conference.

(3) If a settlement is not reached [;otherwise,] the hearing officer shall proceed under KRS Chapter 13B.

Section. 8. Amended pleadings. (1) A party, as a matter of right, may amend a pleading not later than thirty (30) days before a scheduled hearing. Otherwise, a party may amend a pleading only by consent of the adverse party or by leave of the hearing officer, and leave shall be freely given when justice so requires.

(2) If an amended pleading introduces new legal or factual issues which cannot reasonably be met by the opposing party prior

to the scheduled hearing, the hearing officer shall continue the hearing.

Section 9. Final order and consent decree. (1) If a charge has been filed, a consent decree entered by the board is a final order as established by KRS Chapter 13B.

(2) A consent order shall not be binding on the parties until approved by the board.

(3) If a final order or consent decree provides that the executive director shall suspend a license for failure of the licensee to comply with the terms of the final order or consent decree, he shall impose the suspension for failure to comply according to the terms of the final order or consent decree.

(4) If a final order or consent decree does not include that [such] provision, and the executive director has probable cause to believe that a respondent has violated the terms of any final order or consent decree, the executive director shall cause a show cause order, over the signature of the general counsel, to be issued to the respondent, with a copy to the division.

(5) The show cause order shall meet the requirements of a notice and shall be treated as a charge for procedural purposes.

Section 10. At least annually, a summary of all final orders and consent decrees shall be published in a format selected by the board.

DAVID DUMMER, Chairman

APPROVED BY AGENCY: November 7, 2003

FILED WITH LRC: November 10, 2003 at 11 a.m.

CONTACT PERSON: B. David Cox, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, phone (502) 573-2680, fax (502) 573-6687.

## KENTUCKY BOARD OF NURSING (As Amended at ARRS, January 13, 2004)

### 201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 194A.540, 214.615, 314.041(1), (2), 314.051(3)

STATUTORY AUTHORITY: KRS 314.041(2), 314.051(3), 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Kentucky Board of Nursing to promulgate administrative regulations to implement the provisions of KRS 314.011 to 314.991. 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. 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;

3. One (1) current passport type photograph;

4. A report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System;

5. A certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

6. A letter of explanation that addresses each conviction;

(b) Notify the board as soon as a new address is established after submitting the application;

(c) 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;

(d) When taking the examination, abide by and cooperate with security procedures adopted by the board;

(e) Apply to take and pass the National Council Licensure Examination; and

(f) 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 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 application 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. 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 forty-five (45) ~~ninety-one (91)~~ days.

Section 3. Release of Examination Results. 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.;
- (4) The candidate's program of nursing; and
- (5) An individual or agency who submits an applicant's or licensee's written authorization for their release.

Section 4. Incorporation by Reference. (1) "Certified List of Program of Nursing Graduates", (2/96), Kentucky Board of Nursing, is incorporated by reference.

(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, Monday through Friday, 8 a.m. to 4:30 p.m.

M. SUSAN JONES, President

APPROVED BY AGENCY: October 30, 2003

FILED WITH LRC: November 13, 2003 at 10 a.m.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 696-3938, email: nathan.goldman@mail.state.ky.us

# BOARD OF LICENSURE FOR OCCUPATIONAL THERAPY (As Amended at ARRS, January 13, 2004)

## 201 KAR 28:170. Deep physical agent modalities.

RELATES TO: KRS 319A.010(8), 319A.080(4) ~~[319A.070(4)]~~, 319A.170(1)(c)

STATUTORY AUTHORITY: KRS 319A.070(3) ~~[(4)]~~, 319A.080(4) ~~[(a)-(b)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.080(4) allows the board to set forth guidelines for the training and instruction necessary for the use of deep physical agent modalities. KRS 319A.070 ~~[319A.170]~~ states that the board shall issue a certification to a person who qualifies under this administrative regulation. This administrative regulation sets forth the requirements for obtaining certification in deep physical agent modalities.

Section 1. Definition. "DPAM Specialty Certification" means the certification issued to a Kentucky-licensed occupational therapist or licensed occupational therapist assistant who meets the standards set forth in KRS 319A.180 and this administrative regulation and who has been certified by the board.

Section 2. Application. A licensee, before utilizing deep physical agent modalities, shall submit an application to the board for a DPAM Specialty Certification.

(1) The application shall be accompanied by:

(a) Payment of the fee required by KRS 319A.170(1)(c).

(b) Proper documentation that the applicant has met all educational and clinical requirements for certification which include:

1. Successful completion of the requisite hours of training and instruction required by KRS 319A.080(4) for the level of licensure held by the applicant; and

2. Successful completion of the five (5) treatment sessions that meet the requirements specified in Section 4 of this administrative regulation.

(2) The documentation shall include:

(a) The names and addresses of the person or organization presenting the courses or training attended by the applicant;

(b) A copy of the course syllabus or a description of the workshop or seminar which includes a summary of the learning objectives and teaching methods employed in the workshop or seminar and the qualifications of the instructors;

(c) The name and address of the person who supervised the treatment sessions;

(d) A statement signed by the supervisor confirming that the applicant has completed five (5) supervised treatment sessions and that the criteria set forth in Section 4 of this administrative regulation have been met; and

(e) A statement signed by the designed program official confirming successful completion of the training or course of instruction.

(3) A DPAM Specialty Certification shall be issued by the board before the individual can begin using deep physical agent modalities except when a qualified licensee is performing those modalities as part of a supervised program to complete the supervised treatment sessions required for a DPAM Specialty Certification under this administrative regulation.

(4) The board shall maintain a roster of persons who have been issued DPAM Specialty Certification for the use of deep physical agent modalities.

(5) An OT/L or OTA/L who is also licensed by the Kentucky Board of Physical Therapy as a physical therapist or physical therapist assistant and who seeks a DPAM certification shall be certified by the board upon application.

Section 3. Training and Instruction. (1) The training and instruction shall be earned by direct personal participation in courses, workshops, or seminars.

(2) The content of the courses, workshops, or seminars shall include training and instruction in the following subject areas:

(a) Principles of physics related to specific properties of light, water, temperature, sound, and electricity;

(b) Physiological, neurophysiological, and electrophysiological changes which occur as a result of the application of each of the agents identified in KRS 319A.010(8);

(c) Theory and principles of the utilization of deep physical agents which includes guidelines for treatment or administration of agents within the philosophical framework of occupational therapy;

(d) The rationale and application of the use of deep physical agents;

(e) The physical concepts of ion movement;

(f) Critical thinking and decision making regarding the indications and contraindications in the use of deep physical agents;

(g) Types selection and placement of various agents utilized;

(h) Methods of documenting the effectiveness of immediate and long-term effects of interventions;

(i) Characteristics of equipment including safe operation, adjustment, and care of the equipment; and

(j) Application and storage of specific pharmacological agents.

(3) The programs shall be approved or recognized either by

the American Occupational Therapy Association or the American Society of Hand Therapists or be approved by the board.

(4) A person who is seeking board approval for training and instruction courses, workshops, or seminars which are intended to meet the requirements of KRS 319A.080(4) shall submit a "DPAM Course, Workshop or Seminar Provider Approval Application Form" to the board.

Section 4. Supervised Treatment Sessions. (1) The supervised treatment sessions required for certification shall be ~~conducted on a client and shall be~~ sufficiently detailed to allow the DPAM Specialty Certification supervisor to determine that the supervisee has demonstrated the following skills:

(a) The ability to evaluate ~~or contribute to the evaluation of~~ the client, ~~depending upon the applicant's licensure status as an OT/L or an OTAL~~ and make an appropriate selection of the deep physical agent to be utilized;

(b) A thorough knowledge of the effects of the deep physical agent which is to be utilized;

(c) The ability to explain the precaution, contraindication, and rationale of the specific deep physical agent utilized;

(d) The ability to formulate and justify the occupational therapy intervention plan specifically delineating the adjunctive strategy associated with the use of each deep physical agent;

(e) The capability to safely and appropriately administer the deep physical agent; ~~and~~

(f) The ability to properly document the parameters of intervention which include the client's response to treatment and the recommendations for the progression of the intervention process; ~~and~~

(g) The skills identified in paragraphs (d) and (f) of this subsection are not applicable to an OTAL's practice and an OTAL is not required to demonstrate the skill in a supervised treatment session.

(2) The supervised treatment sessions shall include one (1) session for each of the following areas:

(a) Iontophoresis;

(b) Ultrasound; and

(c) Electrical stimulation.

(3) The remaining two (2) sessions may cover any deep physical agent identified in KRS 319A.010(8).

(4) Supervised treatment sessions may be completed in a laboratory portion of an instructional course, provided that the instructor meets the board's requirements for a DPAM specialty certification supervisor and that all of the requirements of this administrative regulation have been met.

~~5. [(4)] [Supervised treatment sessions may be completed in a laboratory portion of an instructional course, provided that the instructor meets the board's requirements for a DPAM Specialty Certification supervisor and that all of the requirements of this administrative regulation have been met.~~

~~(5)] Treatment sessions shall be completed under the direct supervision of a person who meets the requirements of subsection (5) of this section and is approved by the board.~~

6. [(5)] [(6)] Before an individual may be a supervisor for the treatment sessions specified in this administrative regulation, he or she shall:

(a) Be licensed or certified by a state agency that has the authority to permit the use of deep physical agent modalities;

(b) Be licensed at a level which permits the individual to fully and independently evaluate the client;

(c) Be in good standing with that agency; and

(d) ~~[(e)]~~ Have one (1) year of clinical experience in the use of deep physical agent modalities.

(7) The issuance of the DPAM specialty certification by the board only shows that the applicant has met the minimum requirements of KRS 319A.080(4)(a). It shall be [is] the duty of the individual licensee to determine his or her [their] competency to provide a specific DPAM for a client.

Section 5. An OTAL certified to use DPAMs under this administrative regulation may only use DPAMs when supervised by an OT/L certified to use DPAMs under this administrative regulation.

Section 6. Incorporation by Reference. (1) "DPAM Course, Workshop or Seminar Provider Approval Application Form", is

incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Occupational Therapy, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JULIA WESTFALL, Chair

APPROVED BY AGENCY: December 12, 2003

FILED WITH LRC: December 15, 2003 at 10 a.m.

# CABINET FOR PUBLIC PROTECTION AND REGULATION

Department of Insurance

Division of Financial Standards and Examinations

(As Amended at ARRS, January 13, 2004)

**806 KAR 3:041. Repeal of 806 KAR 3:025, 806 KAR 3:040, 806 KAR 3:050, 806 KAR 3:060, 806 KAR 3:070, 806 KAR 3:090, 806 KAR 3:120.**

RELATES TO: KRS 13A.310, 304.3-120, 304.3-140

STATUTORY AUTHORITY: KRS 13A.310

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13A.310

requires that an administrative regulation, once adopted, cannot be withdrawn, but shall be repealed if it is desired that it no longer be effective. This administrative regulation repeals 806 KAR 3:025, 806 KAR 3:040, 806 KAR 3:050; 806 KAR 3:060; 806 KAR 3:070; 806 KAR 3:090, 806 KAR 3:120, which are no longer necessary. 806 KAR 3:025 prohibits insurers from crediting for anticipated salvage or subrogation recoveries in annual or interim statements, however, Statutory Accounting Principles and the accounting guidelines of the National Association of Commissioners do allow insurers to include salvage or subrogation recoveries. The repeal of 806 KAR 3:025 will promote uniformity in insurance regulation. 806 KAR 3:040 establishes a date for determining whether an insurer is in compliance with KRS 304.3-120(2) regarding minimum capital required, however the department looks at companies' capital funds throughout the year and it is necessary for companies to be in compliance with KRS 304.3-120 at all times. 806 KAR 3:050 is based on KRS 304.3-120(3), which has been amended since promulgation of 806 KAR 3:050. This administrative regulation provides an outdated and unnecessary definition of bona fide surplus. 806 KAR 3:060 relates to the deposit requirement of KRS 304.3-140 and is no longer necessary "to aid in the effectuation" of the Kentucky Insurance Code. 806 KAR 3:070 provides that companies may request annual statement forms from the department. This administrative regulation is being repealed because it is not necessary in order to implement KRS 304.3-240. [These forms are no longer necessary as KRS 304.3-240 provides that annual statements shall be filed on forms prescribed by the National Association of Insurance Commissioners.] 806 KAR 3:090 requires companies subject to KRS 304.3-090 to make a deposit in accordance with Sections 2 and 3 of the administrative regulation. KRS 304.3-140 already requires insurers to make this deposit and the process described in 806 KAR 3:090 is no longer necessary. 806 KAR 3:120 relates to KRS 304.7-070, which was repealed in 2000. This administrative regulation will repeal outdated and unnecessary administrative regulations.

Section 1. The following administrative regulations are hereby repealed:

(1) 806 KAR 3:025, Salvage or subrogation recoveries;

(2) 806 KAR 3:040, Date for determining capital position;

(3) 806 KAR 3:050, Bona fide surplus defined;

(4) 806 KAR 3:060, Substitute for deposit; reciprocal;

(5) 806 KAR 3:070, Annual statement forms;

(6) 806 KAR 3:090, Deposit requirements; foreign insurers; and

(7) 806 KAR 3:120, Investment proposal.

JANIE A. MILLER, Commissioner, Secretary

APPROVED BY AGENCY: November 5, 2003

FILED WITH LRC: November 13, 2003 at 3 p.m.

CONTACT PERSON: Russell R. Coy II or Melea Kelch, Ken-

tucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602-0517, phone (502) 564-6032, fax (502) 564-1456.

**CABINET FOR HEALTH SERVICES**  
Office of the Inspector General  
(As Amended at ARRS, January 13, 2004)

902 KAR 20:058. Operation and services; primary care center.

RELATES TO: KRS ~~[216.2925, 216.530,]~~ 216B.010, 216B.015, 216B.040, 216B.042, 216B.045 to 216B.055, 216B.075, 216B.105 to 216B.131, 216B.176, 216B.177, ~~[216B.010 to 216B.130,]~~ 216B.990

STATUTORY AUTHORITY: KRS 216B.042, 216B.105  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires ~~[and 216B.105 mandate]~~ that the Kentucky Cabinet for Health Services regulate health facilities and health services. This administrative regulation provides licensure requirements for the operation of and services provided by primary care centers. ~~[Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.]~~

Section 1. Definitions. (1) "Center" means a primary care center.

(2) "Qualified dietitian [dietician]" or "nutritionist" means:

- (a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietitian [dietician] by ADA; or
- (b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or
- (c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietitian [dietician].

Section 2. Requirement to Provide ~~[Scope of Operation and]~~ Services. (1) A primary care center shall:

- (a) Have permanent facilities; and
- (b) Provide basic health care services to patients of all ages.

(2) A primary care center shall provide:

(a) ~~[is a community-oriented organization with permanent facilities that provides the entry point into the health care delivery system to patients of all ages, in a defined geographic service area. A primary care center provides]~~ A variety of preventive, diagnostic, and therapeutic ~~[and referral]~~ services by appropriately licensed or certified members of the health professions to meet usual health care needs in a manner that ensures the continuity of care; and

(b) Appropriate referrals to patients who require services that are above the level of basic health care services and not provided by the center.

Section 3. Administration and Operations. (1) Licensee.

(a) The licensee shall be legally responsible for the center and for compliance with federal, state and local laws and administrative regulations pertaining to the operation of the center.

(b) The licensee shall establish written policies, for the administration and operation of the service.

(2) Administrator. All centers shall have an administrator who shall be responsible for the operation of the center and shall delegate the ~~[such]~~ responsibility in his absence.

(3) Policies.

(a) Administrative policies. The center shall have written administrative policies covering all aspects of the center's operation, including:

1. A description of organizational structure, staffing and allocation of responsibility and accountability;

2. A description of referral linkages with inpatient facilities and other providers;

3. Policies and procedures for the guidance and control of personnel performances;

4. A description of services directly provided by the center ~~[included in the center's program];~~

5. A description of the administrative and patient care records and reports;

6. A policy for an expense and accrual-based revenue accounting system following generally accepted accounting procedures; and

7. A policy to specify the provision of emergency medical services.

(b) Patient care policies. Patient care policies shall be developed by the staff physician(s) and other professional staff for all medical aspects of the center's program to include:

1. Written protocol(s), to include: ~~[(i.e.,)]~~ standing orders, rules of practice, and medical directives~~[(s)]~~ applying to services ~~[service]~~ provided by the center ~~[both for preventive health services as well as for illness and injury which explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols shall further direct data analysis and direct explicit medical action depending upon the data collected and also include the rationale for each decision made].~~ The protocols shall be signed by the licensed staff physician of the center.

2. The center shall have patient care policies for patients held in the center's holding-observation accommodations.

(c) A system shall be established to ensure ~~[such]~~ that, if ~~[when]~~ feasible, the patient is always cared for by the same health professional or health team, ~~[on both an inpatient and an ambulatory basis,]~~ to assure continuity of care.

(d) Patient rights policies. The center shall adopt written policies regarding the rights and responsibilities of patients. These patient ~~[patients']~~ rights policies shall assure that each patient:

1. Is informed of these rights and of all rules and administrative regulations governing patient conduct and responsibilities, including a procedure for handling patient grievances.

2. Is informed of services available at the center and of related charges including any charges not covered under Medicare, Medicaid, or other third-party payor arrangements.

3. Is informed of his medical condition, unless medically contraindicated (as documented in his medical record), and is afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research.

4. Is encouraged and assisted to understand and exercise his patient rights; to this end he may voice grievances and recommend changes in policies and services. Upon the patient's request the grievances and recommendations shall be conveyed within a reasonable time to an appropriate decision making level within the organization which has authority to take corrective action.

5. Is assured confidential treatment of his records and is afforded the opportunity to approve or refuse their release to any individual not involved in his care except as required by Kentucky law or third-party payment contract.

6. Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in the care of his personal health needs.

(4) Personnel.

(a) Primary care provider team. The center shall have a minimum of one (1) or more full-time licensed physician(s) and either one (1) or more full-time advanced registered nurse practitioner(s), one (1) or more physician ~~[physician's]~~ assistant(s), or one (1) or more full-time registered nurse(s).

1. Physician. The physician~~[-]~~ shall be in active practice~~[-]~~ and shall be responsible for all medical aspects of the center, and shall provide direct medical services in accordance with KRS Chapter 311. Physicians employed by or having an agreement with the center to perform direct medical services shall be qualified to practice general medicine, for example ~~[(e.g.,)]~~ general practitioners, family practitioners, obstetrician/gynecologists, pediatricians, and internists~~[(s)]~~. Physicians employed by or having an agreement with the center to perform direct medical services shall ~~[should]~~ be members of the medical staff of, or hold at least courtesy staff privileges at, one (1) or more hospitals with which the center has a

formal transfer agreement.

2. Nurse. ~~An [The] advanced registered nurse practitioner and a registered nurse [practitioner(s) and the registered nurse(s)]~~ shall provide services within their respective scopes [scope] of practice pursuant to KRS Chapter 314.

3. Physician's assistant. ~~A physician [physician's] assistant~~ shall provide services within his or her scope of practice pursuant to KRS Chapter 311.

(b) In-service training. All center personnel shall participate in ongoing in-service training programs relating to their respective job activities. These programs shall include thorough job orientation for new personnel, regular in-service training programs, emphasizing professional competence and the human relationship necessary for effective health care.

(5) Medical records.

(a) The center shall maintain a medical record for a patient to include [type of family-centered medical records identifying all family members (a single patient may be considered a family unit). Medical records shall contain] at least the following:

1. Medical and social history, including data obtainable from other providers;

2. Description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment, diagnosis, services provided, medications and treatments prescribed, and disposition made;

3. Reports of all laboratory, x-ray, and other test findings; and

4. Documentation of all referrals made, to include reason for referral, to whom patient was referred, and any information obtained from referral source.

(b) Confidentiality of all patient records shall be maintained at all times.

(c) Transfer of records. The center shall establish systematic procedures to assist in continuity of care if [where] the patient moves to another source of care, and the center shall, upon proper release, transfer medical records or an abstract thereof if [when] requested.

(d) Retention of records. After the patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or if [in case of] a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(6) Linkage agreements.

(a) The center shall have linkages through written agreements with providers of other levels of care which may be medically indicated to supplement the services available in the center. These linkages shall include:

1. Hospitals; and

2. Emergency medical transportation services in the service area.

(b) Linkage agreements with inpatient care facilities shall incorporate provisions for appropriate referral and acceptance of patients from the center, provisions for appropriate coordination of discharge planning with center staff, and provisions for the center to receive a copy of the discharge summary for each patient referred to the center.

(c) The written transfer agreements shall include designation of:

1. Responsibility for transfer of information;

2. Responsibility for provision of transportation;

3. Responsibility for sharing of services, equipment, and personnel;

4. Responsibility for provision of total care or portions thereof in relation to facility and agency capability; and

5. Responsibility for patient record confidentiality pursuant to all applicable federal and state law.

~~[(d) These linkage requirements shall not be construed as criteria for determining financial liability in the case of provision of services by the center through linkage agreements.]~~

(7) Utilization review and medical audit. In order to determine the appropriateness of the services delivered, the center shall establish procedures for the medical audit and utilization review of services provided in the center. The center may use professional capabilities and assistance obtainable from other agencies and sources. There shall be a written plan for utilization review devel-

oped by the center including frequency of reviews and composition of the body conducting the review.

(8) A center that is licensed at the same location as another licensed health care facility shall:

(a) Operate as a separate and distinct business entity and be physically separate and distinguishable from another licensed health care facility;

(b) Maintain separate medical records;

(c) Have a separate staff; and

(d) Independently meet applicable licensure requirements.

Section 4. Provision of Services. (1) Hours of operation and coverage. Scheduled hours of the center's operation shall reasonably accommodate the various segments of the population served. Provisions shall be made for scheduled evening hours and/or weekend hours if needed.

(2) Basic services. The center shall provide directly (except as noted) at least the following services:

(a) Medical diagnostic and treatment services of sufficiently broad scope to accommodate the basic health needs (including prenatal and postnatal care) of all age groups;

(b) Emergency services.

1. The center shall provide emergency medical services during the regularly scheduled hours for treatment of injuries and minor trauma.

2. The center shall post in a conspicuous area at the entrance, visible from the outside of the center, the hours that emergency medical services will be available in the center, and where emergency medical services not provided by the center can be obtained during and after the center's regular scheduled hours of operation.

(c) Preventive health services of sufficiently broad scope to provide for the usual and expected health needs of persons in all age groups.

(d) Education in the appropriate use of health services and in the contribution each individual can make to the maintenance of his own health.

(e) Chronic illness management.

(f) Laboratory, x-ray and treatment services shall be provided directly or arranged through other providers.

(3) Supplemental services.

(a) The center shall provide additional professional services to complement the basic services provided in the program of the center. At least two (2) of the following services shall be provided by the center at some time during the scheduled hours of operation, either directly or by contract on site. The center shall establish linkages with those supplemental services which currently exist in the service area and which are not provided directly or by contract by the center to include:

1. Pharmacy: licensed pharmacist;

2. Dentistry: licensed dentist;

3. Optometry: licensed optometrist or ophthalmologist;

4. Midwifery services: certified nurse midwife;

5. Family planning;

6. Nutrition: qualified dietitian [dietician] or nutritionist;

7. Social service counseling: licensed social worker; and

8. Home health: licensed home health agency.

(b) Any center which does not have a linkage agreement with the above listed supplemental services but which documents a good faith attempt to enter into the [such a] linkage agreement, shall be exempt from the linkage agreement requirement.

(4) Extension services.

(a) The center may provide primary care services on a temporary or regular basis in locations separate from its permanent facility. The extension locations shall be listed on the licensure application.

(b) With the exception of an extension located at a school and operated under an agreement between the center and a board of education pursuant to KRS 216B.176, the extension shall comply with the minimum staffing requirements of Section 3(4) of this administrative regulation.

(c) The center shall have written policies and procedures pertaining to all aspects of the extension service, including:

1. Patient care;

2. Treatment protocols;

3. Patient rights;
4. Provided services;
5. Medical records;
6. Linkage agreements; and
7. Hours of operation and staffing.

(d) The extension service shall be located within the primary care center's service area. [~~provided any extension services are set forth in the licensure application and meet requirements of KRS 216B.010 to 216B.130. The extension shall comply with the minimum staffing requirements of Section 3(4) of this administrative regulation.~~]

(a) The center shall have written policies and procedures pertaining to all aspects of the extension service, including patient care (including protocols) and patient rights, services, medical records, linkage agreements, hours of operation and staffing.

(b) The extension service shall be located within the primary care center's service area.

(c) The licensee of the center shall be responsible for all aspects of any extension services.

(e) [(d)] The center's utilization review program shall include any extension services.

(5) Outreach activities. The physician may engage in outreach activities to provide medical service within the primary care center's service areas.

(6) Holding-observation accommodations. Utilization of holding-observation accommodations maintained by the center will be allowed within the limitations outlined below:

(a) Utilization of these accommodations shall not exceed twenty-four (24) hours medical observation or recuperation in anticipation of transfer to an inpatient facility or to the patient's home.

(b) The decision to hold a patient shall be the responsibility of a physician(s) on the medical staff of the center.

(c) A physician or a registered nurse shall be on duty at the center when a patient is held in the center's accommodations beyond regular scheduled hours.

(7) Plan of care. The center shall establish and periodically update a written plan of care of all patients and/or family units, reflecting staff discussion of all medical and social information obtained relative to the patient and his family.

(8) Telephone screening and referral. The center shall provide telephone screening and referral services for prospective patients after regularly scheduled hours of operation.

[~~Section 5. Separability. If any clause, sentence, paragraph, section or part of these administrative regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment was rendered.~~]

PAMELA J. MURPHY, Inspector General

MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: October 10, 2003

FILED WITH LRC: November 14, 2003 at 11 a.m.

CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

**CABINET FOR HEALTH SERVICES**  
**Department for Public Health**  
**Division for Public Health Protection and Safety**  
**(As Amended at ARRS, January 13, 2004)**

**902 KAR 45:065. Tattooing.**

RELATES TO: KRS Chapter 13B, 211.005, 211.015, 211.025, 211.760, 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 194A.050, 211.760(3)

NECESSITY, FUNCTION AND CONFORMITY: KRS 211.760(2) requires nonmedical persons who engage in or carry on any business of tattooing to register with a local health depart-

ment. KRS 211.760(3) requires the Cabinet for Health Services to promulgate administrative regulations relating to: (a) health and cleanliness of places of business; (b) sterilization of tattooing instruments and equipment; (c) procedures to prevent the spread of disease; [and] (d) Procedures to prevent tattooing of minors without the written notarized consent of a custodial parent or legal guardian; and (e) Other administrative regulations as may be necessary to protect public health. This administrative regulation establishes [emergency administrative regulation 902-KAR 45:065E and] the standards required by KRS 211.760(3).

Section 1. Definitions. (1) "Antiseptic" means a substance applied to the skin that reduces the number of microorganisms.

(2) "Autoclave" means equipment sold as sterilizing equipment for medical instruments and employs steam under pressure to sterilize.

(3) "Blood" means human blood or any human body fluid or tissue that is visibly contaminated with blood.

(4) "Bloodborne pathogen(s)" means the pathogenic microorganisms that are present in human blood that can cause disease in humans such as [~~These pathogens include, but are not limited to:~~] Hepatitis B (HBV), Hepatitis C (HCV), and human immunodeficiency virus (HIV).

(5) "Contaminated" means the presence of or reasonably expected presence of blood or other potentially-infectious material in or on the surface of an item.

(6) "Contaminated sharps" means any contaminated object that can penetrate the skin such as tattoo needles and razors.

(7) "Contaminated waste" means any material to be disposed of that has been soiled by blood or other potentially-infectious material in the process of tattooing.

(8) [(7)] "Hand washing" means the following process:

(a) Wetting [Wet] hands and forearms with warm running water, 101 - 120°F;

(b) Applying [Apply] antibacterial or antimicrobial soap and thoroughly distributing [distribute] over hands and forearms;

(c) Rubbing [Rub] hands vigorously for twenty (20) seconds, covering all surfaces of the hands, forearms and fingers, paying special attention to the thumbs, backs of fingers, backs of the hands, and between the fingers;

(d) Rinsing [Rinse] hands and forearms thoroughly to remove residual soap; and

(e) Drying [Dry] hands and forearms with paper towels dispensed from sanitary dispensers.

(9) [(8)] "Health care professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky.

(10) [(9)] "High-level disinfection" means the elimination of pathogenic microorganisms except for [but not necessarily] bacterial spores from inanimate objects, rendering them safe to handle.

(11) [(10)] "Instrument" means any tattooing implement that comes into contact with blood or nonintact skin such as [~~Such equipment includes, but is not limited to,~~] needles, needle bars, needle tubes, or other implements used to insert pigment. [All instruments shall be disposable or be made of surgical implant stainless steel and have no rubber gripping on the handles.]

(12) [(11)] "Minor" is defined at KRS 387.010(1).

(13) [(12)] "Mobile studio" means a tattooing studio that is designed to be readily movable.

(14) [(13)] "Nonintact skin" means human skin that has an open wound from a cut, burn, rash, infection, or any other condition that has altered the skin.

(15) [(14)] "Purchased presterilized" means procedure set-ups that are sold individually packaged, processed, and marked with a sterilization lot number, to render them free of all microorganisms.

(16) [(15)] "Registrant" means the individual duly authorized to engage in the business of tattooing.

(17) [(16)] "Registration" means the issuance of a document by the local health department to a tattoo artist authorizing the tattoo artist [them] to engage in the business of tattooing.

(18) [(17)] "Regulated waste" means waste as defined by the Department of Labor, OSHA, Bloodborne Pathogens Regulation,

29 C.F.R. 1910.1030 and incorporated by reference in 803 KAR 2:320.

**(19) [(48)]** "Sanitize" means a bactericidal treatment to clean surfaces of equipment, approved by the local health department for being effective in destroying microorganisms, including pathogens, to a safe level.

**(20) [(49)]** "Sterilization" means the use of an autoclave to kill microbial life by holding instruments and equipment under steam pressure for a minimum of fifteen (15) minutes, at fifteen (15) pounds of pressure, at a temperature of 250°F or 121°C.

**(21) [(20)]** "Studio" is a facility as defined by [defined as facility at] KRS 211.760(1)(b).

**(22) [(24)]** "Studio certification" means the issuance of a document by the local health department to a studio owner certifying that studio, after inspection, was in compliance with the applicable provisions of this administrative regulation.

**(23) [(22)]** "Studio owner" means:

- (a) An owner of a facility where tattooing is conducted; or
- (b) A sole proprietor who performs tattooing; or
- (c) A person who employs tattoo artists.

**(24) [(23)]** "Tattoo artist" means a person registered by the local health department.

**(25) [(24)]** "Temporary studio" means a facility setup that operates no more than seven (7) days in a ninety (90) day period.

**Section 2. Registration.** (1) An applicant shall be at least eighteen (18) years of age at the time of application.

(2) Pursuant to KRS 211.760(2), a [No] person shall not act as or engage in the business of tattooing unless registered with the local health department in the district or county where the person is to tattoo.

(3) An applicant for registration for tattoo artists shall submit a completed Application Form, DFS-303, incorporated by reference, to the local or district health department in the district or county where the applicant intends to perform tattooing.

(4) Pursuant to KRS 211.760(2), payment of the registration fee [fees, as specified in KRS 211.760(1),] shall be made to the local or district health department where the applicant intends to tattoo.

(5) The tattoo registration shall be mailed to the owner of the Kentucky-certified studio listed on the application for registration.

(6) All tattooing shall be under the auspices of a Kentucky-certified studio.

(7) A registrant shall post his registration document prominently at his workstation.

(8) A registration is nontransferable from one (1) person to another, or from one (1) district or county to another.

(9) Applicants for registration must be eighteen (18) years of age or older at the time of registration.

(10) Pursuant to KRS 211.760(2), registrations shall expire one (1) year from the date of issuance [on March 31 of each year].

**Section 3. Studio Certification.** (1) A [No] person shall not engage in the business of tattooing unless the owner of the facility holds a studio certification issued by the local health department in the district or county where the person is to tattoo.

(2) A studio certification shall not be issued or renewed unless the studio has been inspected and found to be in compliance with the provisions of this administrative regulation.

(3) A studio certification shall be required for each district or county in which a registrant performs any activity regulated by this administrative regulation.

(4) The studio certification shall be prominently displayed to the public in the studio.

(5) A studio certification is nontransferable from one (1) person to another, or from one (1) location to another.

(6) A [No] holder of a studio certification issued under this administrative regulation shall not allow persons to tattoo unless registered in accordance with Section 2 of this administrative regulation.

(7) Payment of an annual inspection fee of \$100 shall be made to the local health department in the district or county where the person is to tattoo.

(8) Applications for studio certification shall be submitted to the local health department on application form DFS-200, incorporated by reference.

(9) The studio certification shall expire one (1) year from the date of issuance [on March 31 of each year].

**Section 4. Facility Requirements.** (1) A facility shall:

- (a) Be kept clean and in good repair;
- (b) Be free of insect and rodent infestation;
- (c) Store only items necessary to its operation and maintenance;
- (d) Provide artificial light of at least twenty (20) foot-candles, measured at a height of thirty-six (36) inches from the floor;
- (e) Be well ventilated;
- (f) Not permit the presence of a pet or other animal, except for:
  - 1. A trained guide or assistance animal for the disabled; and
  - 2. Fish in an aquarium in the waiting area;
- (g) Not use a room otherwise used as living or sleeping quarters;
- (h) Use a solid, self-closing door to separate living or sleeping quarters from the business operation;
- (i) Have an entrance allowing direct entry into the facility, except for a facility existing on the effective date of this administrative regulation [,-in] which [case the facility] is exempt from this requirement;
- (j) Have convenient, clean, and sanitary toilet and hand-washing facilities for the use of clientele; [-]
- (k) Be organized to keep clean areas separate from contaminated areas;
  - (l) Use only a utility sink to:
    - 1. Clean contaminated instruments; and
    - 2. Empty mop water, without placing the mop bucket into the sink;
  - (m) Use, clean, and maintain equipment according to manufacturers' recommendations;
  - (n) Use a hard surface high-level EPA registered disinfectant; or
    - 1. A solution of five and one-fourth (5.25) percent chlorine bleach, fifty (50) parts per million to 100 parts per million; and
    - 2. A chlorine test kit to test concentration;
  - (o) Have plumbing sized, installed, and maintained in accordance with the Kentucky State Plumbing Code, 815 KAR Chapter 20; [-]
  - (p) Have an adequate potable water supply from:
    - 1. A public or municipal water district, if available; or
    - 2. A private water source approved by the Cabinet for Natural Resources and Environmental Protection, until a public water supply becomes available; and
  - (q) Dispose of sewage by connection to:
    - 1. A public sewer system, if available; or
    - 2. A private sewer system designed, constructed, and operated pursuant to the requirements of the Cabinet for Health Services or the Cabinet for Natural Resources, until a public sewer system becomes available.
- (2) A workstation shall:
  - (a) Have light-colored, smooth, easy-to-clean floors, walls, and ceilings;
  - (b) Have surfaces, including counters, cabinets, chairs, and dispensers, composed of light-colored, smooth, nonporous material able to withstand repeated cleaning and disinfecting, except for a facility existing on the effective date of this administrative regulation [,-in] which [case the facility] is exempt from the color requirement;
  - (c) Have at least sixty (60) square feet of floor space with a minimum of one half (1/2) walls between workstations; [-]
  - (d) Have 100 foot-candles of light at the procedure level;
  - (e) Have unimpeded access to a hand sink, without opening a door;
  - (f) Have a sink for each artist with hot water at least 120°F and cold water less than 101°F, delivered by a mixing faucet, operated by wrist, knee, or foot action;
    - 1. Each sink shall be supplied with:
      - a. Liquid soap; and
      - b. Single-use paper towels dispensed from a sanitary dis-



penser; and

2. A hand sink shall not be used for any other purpose;
- (g) Be designated as a tattoo workstation, and shall not be used for any [no] other purpose; [-]
- (h) Have lined plastic or metal waste receptacles; and
- (i) Have a container for disposable sharps that:
  1. Is rigid, puncture proof, and leak proof on sides and bottom;
  2. Is closeable and sealable; and
  3. If sealed, is leak resistant and incapable of being opened without great difficulty.

Section 5. Cleaning and Sterilization. (1) A facility may have a one (1) room or two (2) room cleaning and sterilization arrangement.

- (a) A two (2) room arrangement shall have:
  1. One (1) room for contaminated items, equipped with a utility sink with minimum dimensions of 18 in. x 18 in. x 12 in., a presoak container, ultrasonic cleaning unit, and autoclaving packaging materials; and
  2. A second room for sterilization of instruments and equipment.
- (b) A one (1) room cleaning and sterilization process shall be arranged to provide two (2) distinct areas. The ultrasonic unit shall be as far away as possible from the autoclave to prevent contamination of sterile instruments, equipment, or other items. The cleaning area shall be equipped with a utility sink with minimum dimensions of 18 in. x 18 in. x 12 in., a presoak container, ultrasonic cleaning unit, and autoclaving packaging materials. Nonporous barriers may be utilized to delineate the two (2) distinct areas.

(2) All instruments shall be disposable or be made of surgical implant stainless steel and shall not have rubber gripping on the handles.

(3) Instruments shall be processed as follows:

- (a) Soak used instruments in a covered container of cool water with or without detergent until cleaned and sterilized;
  - (b) Use disposable, single-use gloves, such as examination or surgical gloves;
  - (c) Prepare the ultrasonic cleaner according to manufacturer's instructions;
  - (d) Take instruments apart and rinse in warm water;
  - (e) Load the ultrasonic cleaner and process according to manufacturer's recommendations, disposing of the ultrasonic cleaner liquid after each use;
  - (f) Wearing examination gloves, remove instruments from the ultrasonic cleaner, rinse with clean water, and dry with a clean, lint-free towel, or allow to air dry; and
  - (g) Store cleaned instruments in a labeled, covered container until packaged for sterilization.
- (4) [(3)] Sterilization equipment. Equipment used to sterilize instruments shall meet the following requirements:
- (a) The equipment was sold as sterilizing equipment for medical instruments; and
  - (b) The equipment is used, cleaned, and maintained to manufacturer's instructions; and
  - (c) The equipment meets the minimum requirements in the definition of "sterilization".

(5) [(4)] Needles or other reusable instruments placed in contact with skin that is tattooed shall be cleaned and sterilized. Disinfection shall not be used in place of cleaning and sterilization. Liquid sterilants shall not be used for sterilization of reusable instruments.

(6) [(5)] Instrument sterilization. Instruments that touch noninfect skin, shall be sterilized as follows:

- (a) Use clean disposable, single-use surgical or examination gloves;
- (b) Package cleaned instruments individually in paper or plastic, or paper-and-plastic, peel-pack(s) with color (heat) change indicator(s); or package as set-ups with color change indicator;
- (c) Label with content, date, and preparer's initials;
- (d) Load the sterilizer and process according to the manufacturer's directions;
- (e) Remove the items when cool and dry; [and]
- (f) Store the items in a clean, dry, labeled container, cabinet or

other place that is protected from dust and contamination; and

(g) Sterilized instruments shall be resterilized at intervals of no more than six (6) months from the date of the last sterilization.

(7) [(6)] Sterilization equipment monitoring.

(a) Sterilization equipment shall [must] be tested during the initial installation, after any major repair, and at least monthly by using a commercial biological monitoring system; and

(b) Biological indicator test results for each sterilization unit used in the studio shall [must] be kept on site, and made available for inspection at time of inspection.

(8) [(7)] Sterilizer recordkeeping.

[(a)] A sterilizer log system shall be maintained for each sterilizer in the studio. For each sterilization cycle the following information shall be documented:

- (a) [1-] Date of load;
- (b) [2-] Lot number;
- (c) [3-] Practitioner's name;
- (d) [4-] The general contents of the load;
- (e) [5-] The exposure time and temperature or the sterilizer recording chart or tape; and
- (f) [6-] The results of the chemical indicator.

Section 6. Studio Owner Responsibilities. The owner of a certified studio shall:

(1) Exclude any tattoo artist while infected with a disease in a communicable form that can be transmitted by blood or who is a carrier of organisms that cause disease or while infected with a boil, an infected wound, or an acute respiratory infection;

(2) Receive, review and distribute tattoo artist registrations issued for employees of the certified studio. If [Should] the artist is no longer [be] employed by the certified studio, the registration shall be returned to the district or local health department where the certified studio is located;

(3) Continuously maintain a record of all persons performing any activity within the studio that is regulated by the cabinet. The record shall include at a minimum the following information:

- (a) Full name;
- (b) Date of birth;
- (c) Home address;
- (d) Home phone number;
- (e) Email address if available;
- (f) Photograph of tattoo artist; and
- (g) Complete description of all tattooing procedures performed by the tattoo artist; [-]

(4) Maintain a current copy of this administrative regulation at the studio for use by tattoo artists;

(5) Maintain a minimum of twenty-four (24) sets of sterilized needles and tubes for each artist;

(6) Not resterilize or reuse single-use, disposable components [shall not be resterilized or reused]; and

(7) If [When] presterilized, disposable instruments are utilized, the following records shall be maintained in accordance with Section 8(6) of this administrative regulation and shall be made available at all times to the local health department; [-]

(a) An accurate inventory of all purchased presterilized instruments by name with the date purchased and the quantity on hand; and

(b) Invoices for the purchase of all purchased presterilized instruments.

Section 7. Client Restrictions. (1) A written notarized consent, with an official seal and with the signature of a custodial parent or legal guardian, shall be obtained for all minors prior to application of a tattoo.

(2) ~~The custodial parent or legal guardian who signed the notarized consent shall be present during the tattooing of the minor.~~

(3) Tattooing shall not be applied on skin which has a rash, pimples, evidence of infection, open lesions, mole, sunburn, or manifests any evidence of unhealthy conditions without written clearance by a medical physician licensed by the Kentucky Board of Medical Licensure.

Section 8. Client Information and Records. (1) Before receiving

a tattoo, the client shall be provided written information that tattooing poses a risk of infection, that tattooing is permanent and that removal of a tattoo may leave scars.

(2) Before the application of a tattoo, the client shall be provided written and verbal aftercare instructions that includes the following information:

- (a) Information on the care of the site of the tattoo;
- (b) Instructions on possible side effects;
- (c) Information on any restrictions;
- (d) Information on signs and symptoms of infection; and
- (e) Instructions to consult a physician if signs and symptoms of infection such as fever, swelling, redness, or drainage occur.

(3) A record of all clients who have received any tattoos shall be kept by the studio owner. The record shall include the following information:

- (a) Studio name and registration number;
- (b) The date the procedure was performed;
- (c) Client's ~~[Clients]~~ name, date of birth, address, and telephone number;
- (d) Copy of client's photo ID;
- (e) Name of the tattoo artist who performed the procedure(s);
- (f) The type, location and description of the procedure; and
- (g) Client's attestation to the fact that the client is ~~[they are]~~ not intoxicated or under the influence of drugs or alcohol with significant nature.

(4) Records of each client shall be typed or printed in ink prior to any procedure being performed.

(5) All records shall be maintained in a bound log for five (5) years. The current calendar year client, consent and other required records shall be kept at the certified studio and shall be made readily available to inspectors. All records for the previous four (4) years may be maintained off site and shall be made readily available upon request of the cabinet, district or local health department.

Section 9. Disposal of Contaminated Wastes. All wastes produced during the process of tattooing shall be separated for disposal into three (3) classifications as follows:

(1) ~~[Contaminated sharps, which means any contaminated object that can penetrate the skin including, but not limited to tattoo needles and razors.]~~ Contaminated sharps shall be disposed of by using a licensed medical waste disposal company.

(2) Regulated waste, as defined by the Department of Labor, Occupational Safety and Health Administration, shall be disposed of in accordance with the bloodborne pathogens regulation 19 C.F.R. 1910.1030 as adopted in Kentucky by 803 KAR 2:320.

(3) Contaminated waste, other than contaminated sharps and regulated waste, shall be sprayed with a dilution of five and one-fourth (5.25) chlorine bleach, with a range of fifty (50) parts per million to 100 parts per million, double bagged, securely tied and disposed of daily in a trash container that prevents unauthorized access. This material shall be disposed of in an approved site by a general trash hauler.

Section 10. Standard Operating Procedures for Tattooing. The tattoo artist shall follow the procedures listed in this section in preparation for tattooing:

(1) ~~[Neither]~~ The tattoo artist and ~~[nor]~~ the client shall not eat, drink or smoke in the workstation.

(2) The tattoo artist shall wash hands and forearms according to Section 1(8) [(7)] of this administrative regulation prior to and after every procedure.

(3) The tattoo artist shall wear new clean disposable examination gloves for every client. If a glove is pierced, torn, contaminated in any way, or if there is an interruption in the application of the tattoo, both gloves shall be removed immediately and discarded.

(4) The tattoo artist shall use a new or disposable lap cloth, drape, or apron for each client. All lap cloths, drapes and aprons shall be stored in a closed cabinet or container until used.

(5) The tattoo artist shall wear clean clothing. Shirts shall have short sleeves, pants shall be to the ankle in length, and feet shall be completely enclosed in shoes.

(6) All instruments, equipment and items to be used in the procedure shall be placed on a disposable, plastic backed towel.

(7) All inks and pigments used in a procedure shall be dispensed from containers in a manner to prevent contamination of the unused portion in the supply bottle and then discarded.

(8) If ~~[When]~~ a workstation rinse cup is used, alone or in an ultrasonic cleaner, a fresh cup shall be used for each client, and discarded immediately upon completion of the procedure.

(9) All single-use ointment tubes, applicators and supplies placed on the plastic backed towel shall be discarded immediately after use.

(10) Inks, dyes or pigments that are prepared by the tattoo artist shall be nontoxic.

(11) Tattoo needles shall be used once and discarded. If ~~[When]~~ the needlebar is reused, the needlebar shall be cleaned and sterilized before the needles are removed.

(12) If the tattoo artist uses any reusable components, sterilization equipment meeting the requirements in the definition of "sterilization" shall be required.

(13) All devices used to apply pigments shall be designed to prevent backflow of pigments into the machine.

(14) Position the sharps container and waste receptacle within easy reach.

Section 11. Application of the Tattoo. The tattoo artist shall use the procedure in this section when applying a tattoo; ~~[.]~~

(1) Disinfect the procedure area and lay out plastic film or a clean, disposable plastic backed towel.

(2) Wash hands and forearms in accordance with Section 1(8) [(7)] of this administrative regulation.

(3) Position the client comfortably.

(4) Arrange all instruments and supplies to be used in the procedure on plastic film or on a clean, disposable plastic backed towel within easy reach.

(5) Wash hands and forearms in accordance with Section 1(8) [(7)] of this administrative regulation, and use new, clean examination gloves.

(6) Gently clean the client's skin with soap and water and apply an antiseptic that is appropriate for the area where the tattoo is to be applied. If shaving is necessary, use anew, single-use disposable razor.

(7) Acetate or other reusable stencils shall not be used. Place the design on the skin by one (1) of the following methods:

(a) Free-hand drawing using a new disposable marker; or

(b) Apply a single-use hectographic or tissue stencil using antimicrobial soap or other approved product dispensed from a container in a manner that does not contaminate the unused portion.

(8) Remove gloves, wash hands in accordance with Section 1(8) [(7)] of this administrative regulation, and use new clean examination gloves.

(9) Open sterile needles in front of the client and place them into the tattoo machine without touching the end of the needles.

(10) Apply the tattoo.

(11) Apply a thin layer of suitable antibiotic cream using a swab or cotton ball and if appropriate, cover the area with a suitable nonstick dressing that is held in place with suitable skin tape. Plastic film shall not be used.

(12) When the tattooing is complete, the tattoo artist shall answer any questions and provide client with written instructions regarding the tattoo and aftercare.

(13) Immediately after the client leaves the workstation, the tattoo artist shall break down the workstation, properly dispose of any sharps, soak any reusable instruments for later cleaning, and clean and disinfect any surface that may have become contaminated.

Section 12. Standard Operating Procedures for a Mobile Studio. (1) The mobile studio shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees.

(2) The mobile studio shall meet the same requirements as a stationary studio and be inspected by the local health department prior to operation.

(3) ~~[(2)]~~ All sewage shall be stored in a storage tank with a capacity at least 100 percent greater than the capacity of the on-



board potable water, and shall be discharged into a public sewage system.

(4) [(3)] Any on-board restroom shall be supplied with hot running water at least 120°F and cold running water less than 101°F as in subsection (6) [(5)] of this section and shall be supplied with toilet paper, antibacterial or antimicrobial soap and single-use paper towels.

(5) [(4)] If the vehicle lacks an on-board restroom, the owner shall not operate the studio unless it is within 200 feet of a public restroom with hand-washing facilities.

(6) [(5)] All plumbing shall comply with the requirements of the State Plumbing Code, 815 KAR Chapter 20 [KRS Chapter 348].

(7) [(6)] Each mobile studio shall have a potable water system under pressure. The system shall be of sufficient capability to furnish enough hot and cold water for hand washing, instrument cleaning, and sanitization pursuant to the requirements of this administrative regulation. The water inlet shall be located in a position that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the State Plumbing Code, 815 KAR Chapter 20. Hoses, if used, shall be food grade, with a backflow prevention device.

(8) [(7)] Each mobile studio shall have a permanently-installed retention tank that is at least 100 percent larger than the water supply tank. Liquid wastewater shall not be discharged from the retention tank if the mobile studio is in motion. All connections on the vehicle for servicing the mobile studio waste disposal shall be of a different size or type than those used for supplying potable water to the mobile studio. The wastewater connection shall be located below the water connection to preclude contamination of the potable water system.

(9) [(8)] The vehicle shall be used exclusively for performing tattooing. ~~[(9)] Habitation, cooking, pets and~~ and ~~or~~ animals shall not be allowed in the mobile studio.

Section 13. Standard Operating Procedures for a Temporary Studio. (1) The event organizer or studio owner for the ~~such an~~ event shall be responsible for ensuring that the event is run in a manner that is safe for the tattoo artists and the general public. The event organizer or studio owner shall ~~do the following~~:

(a) provide a list of all tattoo artists participating in the event to the local health department in the district or county where the event is being held that includes the following information for each participating tattoo artist:

- (a) [1.] Name of exhibitor/tattoo artist;
- (b) [2.] Date of birth;
- (c) [3.] Home address;
- (d) [4.] Business name;
- (e) [5.] Business address;
- (f) [6.] Home and [7] work telephone numbers;
- (g) [7.] Email address if available;
- (h) [8.] Description of procedures to be performed at the event;

and  
(i) [9.] Copy of current tattoo artist's registration ~~for each participating in the event~~.

(2) The event coordinator or studio owner shall provide a layout of the event floor to the local health department in the district or county where the event is being held showing where the tattoo artists will be tattooing.

(3) Each participant who performs tattooing shall bring enough presterilized instruments and supplies to last for the whole event.

(4) The event coordinator or studio owner shall provide a separate cleaning and sterilization room as a back up for use by participants who have used all of the presterilized instruments and supplies that were brought to the event. If used, the cleaning and sterilization room shall be disinfected at the close of the event. Presterilized disposable instruments and equipment shall not be re-used.

(5) The event coordinator or studio owner shall provide an approved autoclave that has certification of a negative spore test within thirty (30) days prior to the event.

(6) The event coordinator or studio owner shall provide for

pick-up and disposal of contaminated waste in accordance with Section 9 of this administrative regulation.

(7) Temporary studios located at locations such as fairs, festivals, or flea markets, shall comply with all requirements for a certified studio in accordance with Sections 1 through 11 of this administrative regulation in their entirety.

(8) The tattoo artist and the temporary studio shall be registered with the local health department in each district or county in which the studio is operated, and pay the appropriate fees.

(9) The temporary workstation shall meet the following minimum conditions:

(a) Be at least 10 ft. x 10 ft., and be constructed in a manner to separate the tattoo artist from the public in such a way as to protect the procedure area from contamination, and to prevent accidental exposure of the public to potentially-infectious materials created during tattooing;

(b) Have a floor and sides that are smooth, nonporous and easy to clean;

(c) Have at least 100 foot-candles of light available at the level where the tattoo, body piercing or the application of permanent makeup is conducted;

(d) Be equipped with a hand-wash facility. A hand-wash facility at the minimum shall consist ~~consists~~ of liquid antibacterial or antimicrobial soap, single-use paper towels, and an insulated five (5) gallon container with a lever-type spigot, filled with warm potable water 101 - 120°F, and a bucket to catch the wastewater. The water container shall be placed at least thirty (30) inches off the floor to allow for easy use, and shall be filled regularly to ensure an adequate supply of warm water for hand washing;

(e) Wastewater shall be disposed of into a public sewerage system, if available. ~~If [in the event]~~ a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated pursuant to the requirements of the Cabinet for Natural Resources and Environmental Protection administrative regulations 401 KAR Chapter 5 and the Cabinet for Health Services administrative regulations 902 KAR Chapter 10; and

(f) Shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment, pigment supply bottles, and any other item that must be protected to prevent cross-contamination.

Section 14. ~~[Plan Review for Future Construction. When a tattoo studio is hereafter constructed or extensively remodeled, or plumbing relocated, or additional plumbing added, or when an existing structure is converted for use as a certified studio, properly prepared plans and specifications for construction, remodeling, or alteration, showing layout, arrangements, size location and type of facilities and a plumbing riser diagram shall be submitted to the local health department for approval before work is begun. Plumbing shall be in compliance with the State Plumbing Code.~~

Section 15.] Inspection of Studios. (1) At least twice per year, the cabinet or the local or district health department shall inspect each studio and shall make as many additional inspections and re-inspections as are necessary for the enforcement of this administrative regulation.

(2) The cabinet or the local or district health department inspector shall record the findings in writing on an inspection report form DFS-342, incorporated by reference and which ~~provided for that purpose and~~ shall constitute a written notice. The inspection report form shall summarize the requirements of this administrative regulation and shall set forth a weighted point value for each requirement. The rating score of the studio shall be the total of the weighted point value for all violations, subtracted from 100. The inspector shall provide the original of the inspection report to the certificate holder or his designee. The findings shall:

(a) Set forth the specific violations if found;

(b) Establish a specific and reasonable period of time for the correction of the violations specified, pursuant to the following provisions:

1. If the rating score of the studio is eighty-five (85) or more, all violations of one (1) and two (2) point weighted items shall be cor-

rected as soon as possible and before ~~[-but in any event, by the time of]~~ the next routine inspection.

2. If the rating score of the studio is at least seventy (70) but not more than eighty-four (84), all violations of one (1) and two (2) point weighted items shall be corrected as soon as possible and ~~[-but in any event,]~~ within a period not to exceed thirty (30) days.

3. Regardless of the rating score of the studio, all violations of three (3) or four (4) point weighted items shall be corrected within a time specified by the cabinet and within ~~[-but in any event, not to exceed]~~ ten (10) days.

4. If the rating score of the studio is less than seventy (70), the studio shall be issued a notice of intent to suspend the studio certification. The certification shall be suspended within ten (10) days after receipt of the notice unless a written request to an administrative conference is filed with the local or district health department within the ten (10) day period.

(3) Notices provided for under this administrative regulation shall be deemed to have been properly served if the original of the inspection report form or other notice has been delivered personally to the certificate holder or person in charge, or the notice has been sent by registered or certified mail, return receipt requested, to the last known address of the certificate holder.

(4) Failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in suspension or revocation of the certificate or the individual's registration.

(5) Temporary and mobile studios shall correct any violative conditions within twenty-four (24) hours.

**Section 15. [46.] Suspension of Certificates or Individual's Registration.** (1) If the cabinet or the local or district health department has reason to believe that an imminent public health hazard exists, if the certificate holder or registered individual has interfered with the cabinet or the local or district health department in the performance of its duties or if an inspection of a studio reveals a rating score of less than sixty (60), the certificate or the individual's registration shall be suspended immediately upon notice to the holder. If this occurs ~~[-in this event,]~~, the studio certificate holder or individual registration holder may request an administrative conference in accordance with Section 19(2) of this administrative regulation. The conference shall be granted as soon as practical and before ~~[-or in any event not to exceed]~~ ten (10) days.

(2) In all other instances of a violation of the provisions of this administrative regulation, the cabinet or the local or district health department shall serve on the certificate holder or registered individual a written notice specifying the violation and shall afford the certificate holder or registered individual a reasonable opportunity for correction.

(3) The cabinet or the local or district health department shall notify, in writing, the certificate holder or registered individual who fails to comply with a written notice issued under the provisions of this section, that the certificate or individual's registration shall be suspended at the end of ten (10) days following service of this notice unless a request for an administrative conference is requested.

**Section 16. [47.] Reinstatement of Suspended Certificates or an Individual's Registration.** A person whose certificate or registration has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the certification or registration. The application for reinstatement shall be submitted on Form DFS-215, provided by the cabinet. Within ten (10) days following receipt of an Application for Reinstatement, the cabinet or the local or district health department shall make a reinspection. If the applicant is found to comply with the requirements of this administrative regulation, the certificate or individual's registration shall be reinstated.

**Section 17. [48.] Revocation of a Certificate or an Individual's Registration.** For serious or repeated violations of any of the requirements of this administrative regulation, or for interference with agents of the cabinet or the local or district health department in the performance of its duties, a certificate or an individual's registration may be permanently revoked. Prior to this action, the cabinet or the local or district health department shall notify the certifi-

cate holder or registered individual, in writing, stating the reasons for which the certification or registration is subject to revocation and advising that the certification or registration shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative conference is filed with the cabinet by the certification or registration holder within the ten (10) day period. A certification or registration may be suspended for cause pending its revocation or an administrative conference relative to the revocation ~~[-thereof]~~.

**Section 18. [49.] Appeals.** (1) A certificate or registration holder or an applicant aggrieved by a decision of the cabinet or local or district health department may request either an administrative conference or an administrative hearing. The request shall be submitted within ten (10) days of receipt of a written notice of:

- (a) A violation;
- (b) Suspension or revocation of a certificate or individual's registration;
- (c) Denial to renew a certificate or individual's registration; or
- (d) Denial of an initial application for a certificate or individual's registration.

(2) Administrative conference. ~~[-~~

~~[-a)]~~ An administrative conference shall be conducted in accordance with 902 KAR 1:400, Administrative hearings, with the following exceptions:

[a] ~~[-4-]~~ The administrative conference shall be less formal than an administrative hearing;

[b] ~~[-2-]~~ The matter at issue shall be discussed before a representative of the Department for Public Health or the local or district health department; and

[c] ~~[-3-]~~ Participants in the discussion shall be:

1. [a-] An agent of the cabinet or the local or district health department; and

2. [b-] The certificate holder, individual registered, or the applicant;

[d] ~~[-e-]~~ A request for a conference shall be:

1. [4)] ~~[-4)]~~ In writing; and

2. [4)] ~~[-4)]~~ Submitted or addressed to the local or district health department that issued or gave notice of the violation, suspension, or revocation; and

[e] ~~[-d-]~~ A certificate or registration holder or an applicant who does not agree with final ruling of the conference report issued by the local or district health department may appeal by requesting an administrative hearing.

(3) Administrative hearing.

(a) Conduct of the administrative hearing shall be pursuant to 902 KAR 1:400, Administrative hearings and KRS Chapter 13B; and

(b) A request for an administrative hearing shall be:

1. In writing;

2. Submitted or addressed to the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621; and

3. Accompanied by a copy of the notice of violation, notice to suspend or revoke, letter denying an application, or the conference hearing report.

**Section 19. [20.] Incorporation by Reference.** (1) The following material is incorporated by reference:

- (a) DFS-200, Application for Studio Certification (Rev. 7-01);
- (b) DFS-303, Application for Registration (Rev. 7-03);
- (c) DFS-342, Tattoo, Studio Inspection Report (Rev. 6-03);
- (d) DFS-214, Enforcement Notice (Rev. 8-96);
- (e) DFS-212, Request for Conference (Rev. 10-96);
- (f) DFS-213, Notice of Conference (Rev. 8-96); and
- (g) DFS-215, Application for Reinstatement (Rev. 2-95).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, [pursuant to copyright laws] at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Food Safety Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

NICHOLAS Z. KAFOGLIS, M.D., Chairman

RICE C. LEACH, M.D., Commissioner  
 MARCIA R. MORGAN, Secretary  
 APPROVED BY AGENCY: September 22, 2003  
 FILED WITH LRC: October 17, 2003 at 4 p.m.  
 CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

**CABINET FOR HEALTH SERVICES  
 Department for Medicaid Services  
 Division of Financial Management  
 (As Amended at ARRS, January 13, 2004)**

**907 KAR 1:006. Coverage of and payment for services for persons eligible for benefits under both Title XIX and Title XVIII.**

RELATES TO: KRS 205.520, 42 U.S.C. 1396a, 1396a(n)  
 STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050(1), 205.520(3)

**NECESSITY, FUNCTION, AND CONFORMITY:** The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program in accordance with Title XIX of the Social Security Act. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the provisions for coverage of and payment for services for categorically needy and medically needy individuals eligible for benefits under both Title XIX (42 U.S.C. 1396 to 1396v) and Title XVIII (42 U.S.C. 1395 to 1395ggg).

**Section 1. Definitions.** (1) "Coinsurance" means that portion of each bill a Medicare-eligible person pays for a covered benefit, including copayments.

(2) "Deductible" means an amount paid by a Medicare-eligible person before Medicare begins paying its portion of a medical bill.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Medicare Part A" means federal health insurance that covers:

(a) Inpatient hospital or skilled nursing facility services, including blood;

(b) Hospice services; and

(c) Home health services.

(5) "Medicare Part B" means federal health insurance that covers:

(a) Physician services;

(b) Outpatient hospital services;

(c) Durable medical equipment; and

(d) Other services not covered under Medicare Part A.

(6) "Premium" means a monthly amount paid for coverage of Medicare Part A or Part B.

(7) ~~"Qualified Medicare beneficiary" or "QMB" means an individual who meets the requirements in 42 U.S.C. 1396d(p)(1).~~

(8) ~~"Qualified disabled and working individual" or "QDWI" means an individual who meets the requirements in 42 U.S.C. 1396d(s).~~

(9) ~~"Qualified individual one" or "QI-1" means an individual who meets the requirements in 42 U.S.C. 1396a(a)(10)(E)(iv)(II).~~

**(9) "Qualified Medicare beneficiary" or "QMB" means an individual who meets the requirements in 42 U.S.C. 1396d(p)(1).**

(10) ~~"Specified low-income Medicare beneficiary" or "SLMB" means an individual who meets the requirements in 42 U.S.C. 1396a(a)(10)(E)(iii).~~

**Section 2. Medicare Buy-in.** The department shall purchase through the Social Security Administration:

(1) Medicare Part B for a recipient eligible for Medicare who is receiving a money payment under the state program of optional or

mandatory supplementation;

(2) Medicare Part A and Medicare Part B for a recipient determined eligible as a QMB;

(3) Medicare Part B for a recipient determined eligible as a SLMB;

(4) Medicare Part A for a recipient determined eligible as a QDWI; and

(5) Medicare Part B for a recipient determined eligible as a QI-1.

**Section 3. Payment of Deductibles and Coinsurance.** (1) The department shall pay the deductible and coinsurance for a benefit covered under Medicare Part A or Medicare Part B for an individual eligible for:

(a) QMB coverage; or

(b) Both Title XVIII and Title XIX benefits.

(2) The amount of deductible and coinsurance paid by the department to a provider for a benefit covered under Medicare Part A shall be the lesser of:

(a) The Medicaid-allowed amount minus the Medicare payment; or

(b) The Medicare coinsurance and deductible, up to the Medicaid-allowed amount.

(3) With the exception of services identified in subsection (4)(a) through (m) [(k)] of this section, the amount of coinsurance and deductible paid by the department to a provider for a benefit covered under Medicare Part B shall be the full amount of the deductible and coinsurance.

(4) The amount of deductible and coinsurance paid by the department for a service provided in accordance with one (1) of the following administrative regulations and covered under Medicare Part B shall be the lesser of the Medicaid-allowed amount minus the Medicare payment or the Medicare coinsurance and deductible up to the Medicaid-allowed amount:

(a) 907 KAR 1:019, Outpatient Pharmacy Program; or

(b) 907 KAR 1:026, Dental services;

(c) 907 KAR 1:028, Other laboratory and x-ray services;

(d) 907 KAR 1:038, Hearing and Vision Program services;

(e) 907 KAR 1:044, Mental Health Center services;

(f) 907 KAR 1:060, Medical transportation;

(g) Ancillary services pursuant to 907 KAR 1:065, Payments for Price-based Nursing Facility Services;

(h) Ancillary services pursuant to 907 KAR 1:025, Payment for services provided by an intermediate care facility for the mentally retarded and developmentally disabled, a dually-licensed pediatric facility, an institution for mental diseases, and a nursing facility with an all-inclusive rate unit;

(i) 907 KAR 1:102, Advanced registered nurse practitioner services;

(j) [(h)] 907 KAR 1:270, Podiatry Program services;

(k) [(h)] 907 KAR 1:479, Durable medical equipment covered benefits and reimbursement;

(l) [(h)] 907 KAR 3:005, Physicians' services; or

(m) [(k)] 907 KAR 3:125, Chiropractic services and reimbursement, [f-or] [f];

(5) A payment made by the department under this section of this administrative regulation shall be considered as payment in full for a benefit provided under Medicare Part A or B.

**Section 4. Obligation for a QMB Enrolled in a Medicare Managed Care Organization.** (1) The department shall be responsible for payment of Part A and Part B premiums, deductibles and coinsurance, copayments, and enrollment premiums for a QMB recipient enrolled in a Medicare managed care organization.

(2) The department shall reimburse deductibles and coinsurance in accordance with Section 3 of this administrative regulation.

**Section 5. Special Provisions.** An individual determined eligible as a QI-1, shall:

(1) Be limited by a block grant with eligibility established on a first-come first-serve basis;

(2) In calendar years following the year of initial approval, be given preference over another individual who may apply who was not eligible the previous year; and

(3) Have eligibility terminated when the block grant authorized under 42 U.S.C. 1396u-3(c)(1) is no longer available from federal Medicaid funds.

MIKE ROBINSON, Commissioner

MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: October 22, 2003

FILED WITH LRC: November 3, 2003 at noon

CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

**CABINET FOR HEALTH SERVICES**  
**Department for Medicaid Services**  
**Division of Long Term Care and Disability Services**  
**(As Amended at ARRS, January 13, 2004)**

**907 KAR 1:023. Review and approval of selected therapies as ancillary services in nursing facilities.**

RELATES TO: 42 C.F.R. Parts 430, 431, 432, 433, 435, 440, 442, 447, 455, 456, 42 U.S.C. 1396a, b, d

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) 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 administration regulation establishes the provisions relating to the review and approval of selected therapies as ancillary services for Medicaid recipients in nursing facilities.

Section 1. Definitions. (1) "Adult recipient" means an individual who is:

- (a) Eligible to participate in Kentucky's Medicaid Program; and
- (b) Age twenty-one (21) or over.

(2) "Ancillary service" means a direct therapy service for which a separate charge is customarily made pursuant to Section 2 of this administrative regulation.

(3) "Attending physician" means the physician of record identified in the recipient's nursing facility medical record.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Nursing facility" or "NF" means:

(a) A facility:

1. To which the state survey agency has granted an NF license;

2. For which the state survey agency has recommended to the department certification as a Medicaid provider; and

3. To which the department has granted certification for Medicaid participation; or

(b) A hospital swing bed that provides services in accordance with 42 U.S.C. 1395tt and 1396l, if the swing bed is certified to the department as meeting requirements for the provision of swing bed services in accordance with 42 U.S.C. 1396r(b), (c), (d), 42 C.F.R. 447.280 and 482.66, [that:

(a) The state survey agency has:

1. Granted an NF license to a facility; and

2. Recommended the NF to the department for certification as a Medicaid provider; and

(b) The department has granted certification for Medicaid participation to the NF.]

(6) "Pediatric recipient" means an individual who is:

- (a) Eligible to participate in Kentucky's Medicaid Program; and
- (b) Under twenty-one (21) years of age.

Section 2. Covered Ancillary Services. (1) Oxygen therapy shall be a covered ancillary service if the department determines that the therapy:

- (a) Is medically necessary; and

(b) Meets criteria pursuant to Section 3 of this administrative regulation.

(2) The following therapies shall be covered ancillary services if the department determines that the therapies meet the criteria established in Section 3 of this administrative regulation:

- (a) Physical therapy;
- (b) Occupational therapy; or
- (c) Speech therapy[; or
- (d) Respiratory therapy].

Section 3. On-site Review Approval and Denial Criteria. (1) The department shall approve a therapy as an ancillary service if, through an on-site review, the department determines that:

(a) The nature and extent of functional deficiency requires a qualified therapist, as determined through chart evaluation and resident contact;

(b) The care setting is appropriate for treatment planned;

(c) The therapy frequency, duration and intensity shall be [is] reasonable and necessary for the resident's current active diagnosis;

(d) The following documentation is complete:

- 1. Referral request;
- 2. Therapy assessment;
- 3. Action plan;
- 4. Progress report; and
- 5. Service discontinuance;

(e) The progress of the resident can be verified against baseline and stated goals and time frames;

(f) The therapy is not duplicative of other services that the resident is receiving;

(g) The condition of the resident requires a registered therapist to:

- 1. Evaluate the resident's active daily intervention program;
- 2. Supervise trained staff to carry out a therapy regimen;
- 3. Use assistive or adaptive equipment;
- 4. Train staff to use assistive or adaptive equipment;
- 5. Train the resident to use assistive or adaptive equipment during goal setting;

6. Supervise and certify a therapy assistant who is participating in a treatment program;

7. Establish a nursing care plan program to be performed by:

- a. Nursing staff;
- b. Restorative aide; or
- c. A resident; and

8. Be responsible for the timely discharge of a service level;

(h) A therapist has a:

1. Specific diagnosis;

2. Specific treatment plan that relates to a condition of the resident;

3. Specific modality for intervention that relates to a condition of the resident; and

4. Reasonable expectation for gain based on reasonable goals and time frames; and

(i) A resident is:

1. An adult recipient who meets the approval criteria of the "Technical Criteria for Reviewing Ancillary Services for Adults"; or

2. A pediatric recipient who meets the "Technical Criteria for Reviewing Ancillary Services for Pediatrics".

(2) The department shall deny a request for a therapy as an ancillary service pursuant to Section 2 of this administrative regulation if, through an on-site review, the department determines that:

(a) Services of a registered therapist are [is] not needed on a daily basis because:

- 1. Lack of progress of the patient;
- 2. Goals have been met;
- 3. A patient is unable to participate;
- 4. Lack of ability of nursing staff or resident to conduct or perform care;

5. The Nursing care plan program has been designed and will be performed by staff other than a therapist;

6. Nursing staff or the resident is able to safely:

a. Perform the following:

(i) Repetitious exercise;

(ii) Nonrestorative exercise; or

- (iii) Drills; and
- b. Use equipment or devices;
- 7. The frequency or intensity of the services exceeds the benefits;
- 8. No further gains are reasonably achievable; or
- 9. A resident is:
  - a. Independent; or
  - b. Needs only minimal assistance for performance;
- (b) The resident is:
  - 1. An adult recipient who meets the "Indication for Denial" criteria established in the "Technical Criteria for Reviewing Ancillary Services for Adults"; or
  - 2. A pediatric recipient who meets the "Indication for Denial" criteria established in the "Technical Criteria for Reviewing Ancillary Services for Pediatrics"; and
- (c) If applicable, oxygen therapy is not medically necessary.

Section 4. Certification and Recertification Process for a Therapy as an Ancillary Service. (1) Within two (2) workdays of the date that a recipient's attending physician orders administration of a therapy pursuant to Section 2 of this administrative regulation, an [the] NF shall:

- (a) Notify the department by telephone; and
- (b) Request an on-site review of the [a] therapy.
- (2) Within five (5) workdays of receipt of notification pursuant to subsection (1) of this section, the department shall:
  - (a) Perform an on-site review pursuant to Section 3 of this administrative regulation; and
  - (b) Render a certification decision.
- (3) The department shall issue a written notice of approval or denial relating to:
  - (a) A request for oxygen therapy to the:
    - 1.a. Resident; or
    - b. Guardian;
    - 2. NF; and
    - 3. Attending physician; or
  - (b) A request for a therapy pursuant to Section 2(2) of this administrative regulation to the NF.
- (4) If a therapy pursuant to Section 2(2) of this administrative regulation is approved as an ancillary service, the department shall establish a certification period that includes:
  - (a) A start date of up to two (2) workdays prior to the date of notification by an [a] NF pursuant to subsection (1) of this section; and
  - (b) An end date that the department determines to be a reasonable time period for an individual to meet goals established by an individualized therapy program.
- (5) Prior to the last day of a certification period for an approved therapy as an ancillary service, the department shall:
  - (a) Recertify a therapy as an ancillary service for the [an] extended period of time, if an individual continues to meet criteria pursuant to Sections 2 and 3 of this administrative regulation; and
  - (b) Issue a written notice pursuant to subsection (3) of this section.
- (6) If the department denies a [the] request for certification or recertification of a therapy as an ancillary service, the NF may request that the department reconsider a request pursuant to Section 5 of this administrative regulation.

Section 5. Reconsideration and Appeal of a Denial of a Therapy as an Ancillary Service. (1) The department shall reconsider its decision to deny a request for oxygen therapy as an ancillary service if, within thirty (30) days of the date on a notice of adverse action, a written request for reconsideration is submitted to the department by the [a]:

- (a) Resident; or
- (b) Resident's legal guardian.
- (2) If the department receives a request for reconsideration pursuant to subsection (1) of this section, the department shall:
  - (a) Conduct a reconsideration on-site review within three (3) workdays from the receipt of the request;
  - (b) Employ a physician who was not involved with the initial on-site review or determination to conduct a reconsideration on-site review;

(c) Base its reconsideration decision solely upon information that is:

- 1. Contained in the resident's medical records; and
- 2. Submitted with the written request pursuant to subsection (1) of this section; and
- (d) Issue a notification of approval or denial within two (2) workdays of a reconsideration on-site review.
- (3) The department shall reconsider its decision to deny a request for a therapy as an ancillary service pursuant to Section 2(2) of this administrative regulation if:
  - (a) Form MAP-703, "Request for Reconsideration of Ancillary Therapy Billing" is submitted to the department by an [a] NF; and
  - (b) Form MAP-703 is received by the department within seven (7) days of the date on the notice of adverse action.
- (4) If the department receives a request for reconsideration pursuant to subsection (3) of this section, the department shall:
  - (a) Conduct a reconsideration on-site review within seven (7) workdays from receipt of the request;
  - (b) Employ a registered nurse who was not involved with the initial on-site review or determination to conduct the reconsideration on-site review;
- (c) Base its reconsideration decision solely upon information that is:
  - 1. Contained in the resident's medical records; and
  - 2. Submitted with the request pursuant to subsection (3)(a) of this section; and
  - (d) Issue a notification of approval or denial within three (3) workdays of a reconsideration on-site review.
- (5) If an outcome of a reconsideration on-site review results in the denial of a therapy as an ancillary service, the department shall grant an appeal as follows:
  - (a) An appeal of the denial of oxygen therapy as an ancillary service shall be granted pursuant to 907 KAR 1:563; and
  - (b) An appeal of the denial of a therapy pursuant to Section 2(2) of this administrative regulation as an ancillary service shall be granted pursuant to 907 KAR 1:671.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) The "Technical Criteria for Reviewing Ancillary Services for Adults", Department for Medicaid Services, November 2003 [February 2000] edition;
  - (b) The "Technical Criteria for Reviewing Ancillary Services for Pediatrics", Department for Medicaid Services, November 2003 [April 2000] edition; and
  - (c) Form "MAP-703, Request for Reconsideration of Ancillary Therapy Billing", Department for Medicaid Services, April 2000 [October 1999] edition.
- (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.

MIKE ROBINSON, Commissioner

MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: October 17, 2003

FILED WITH LRC: October 27, 2003 at 4 p.m.

CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

**CABINET FOR HEALTH SERVICES**  
**Department for Medicaid Services**  
**Division of Physician and Specialty Services**  
**(As Amended at ARRS, January 13, 2004)**

907 KAR 1:026. Dental services.

RELATES TO: KRS 205.520, 205.8451, 42 U.S.C. 1396a-d  
 STATUTORY AUTHORITY: KRS [494.050,] 194A.030(2) [(3)], 194A.050(1), 205.520(3), 42 U.S.C. 1396a-d  
 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet

for Health Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the provisions relating to dental services [for which payment shall be made by the Medicaid Program on behalf of both the categorically needy and the medically needy].

Section 1. Definitions. (1) "Comprehensive orthodontic" means a medically-necessary dental service for treatment of a dentofacial malocclusion which requires application of braces for correction.

(2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or [and] services.

(3) "Department" means the Department for Medicaid Services or its designated agent.

(4) "Direct practitioner contact" means the billing dentist or oral surgeon is physically present with and evaluates, examines, treats, or diagnoses the recipient.

(5) "Incidental" means that a medical procedure is performed at the same time as a primary procedure and:

(a) Requires little additional practitioner resources; or

(b) Is clinically integral to the performance of the primary procedure.

(6) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(7) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(8) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with each other during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CDT codes; or

(d) Are described in CDT as inappropriate coding of procedure combinations.

(9) "Other licensed medical professional" means a health care provider other than a dentist who has been approved to practice a medical specialty by the appropriate licensure board.

(10) "Prepayment review" or "PPR" means a departmental review process of a claim to determine if Medicaid requirements have been met prior to authorizing payment [reimbursement].

(11) "Prior authorization" or "PA" means approval which a provider shall obtain from the department before being reimbursed for a covered service.

(12) "Provider" is defined in KRS 205.8451(7).

(13) "Recipient" is defined in KRS 205.8451(9).

(14) "Resident" is defined in 42 C.F.R. 415.152.

Section 2. Conditions of Participation. (1) A participating provider shall be licensed in the state in which the practice is located.

(2) A participating provider shall comply with the terms and conditions established in the following administrative regulations:

(a) 907 KAR 1:005, Nonduplication of payments;

(b) 907 KAR 1:671; Conditions of Medicaid provider participation, withholding overpayments, administrative appeals process, and sanctions; and

(c) 907 KAR 1:672; Provider enrollment, disclosure, and documentation for Medicaid participation.

(3) A participating provider shall comply with the requirements to maintain the confidentiality of personal medical records pursuant to 42 U.S.C. 1320d and 45 C.F.R. Parts 160 and 164.

(4) A participating provider shall have the freedom to choose whether to accept an eligible Medicaid recipient and shall notify the recipient of the decision prior to the delivery of service. If the provider accepts the recipient, the provider:

(a) Shall bill Medicaid rather than the recipient for a covered service;

(b) May bill the recipient for a service not covered by Kentucky Medicaid, if the provider informed the recipient prior to providing the service; and

(c) Shall not bill the recipient for a service that is denied by the department for:

1. Being:

a. Incidental;

b. Integral; or

c. Mutually exclusive; [x]

2. Incorrect billing procedures, including incorrect bundling of procedures;

3. Failure to obtain prior authorization for the service; or

4. Failure to meet timely filing requirements in accordance with 42 C.F.R. 447.45.

Section 3. Record Maintenance. (1) A provider shall maintain comprehensive legible medical records which substantiate the services billed.

(2) A medical record shall be signed by the provider and dated to reflect the date of service.

(3) An X-ray shall be of diagnostic quality and shall include the:

(a) Recipient's name;

(b) Service date; and

(c) Provider's name.

(4) A treatment regimen shall be documented to include:

(a) Diagnosis;

(b) Treatment plan;

(c) Treatment and follow-up; and

(d) Medical necessity.

(5) Medical records, including x-rays, shall be maintained in accordance with 907 KAR 1:672, Section 4(3) and (4).

Section 4. General Coverage Requirements. (1) A covered service shall be:

(a) Medically necessary; and

(b) Except as provided in subsection (2) of this section, furnished to a recipient through direct practitioner contact.

(2) A covered service provided by an individual who meets the definition of other licensed medical professional shall be covered if the:

(a) Individual is employed by the supervising oral surgeon, dentist, or dental group;

(b) Individual is licensed in the state of practice; and

(c) Supervising provider has direct practitioner contact with the recipient.

(3) A medical resident may provide services if provided under the direction of a program participating teaching physician in accordance with 42 C.F.R. 415.170, 415.172, and 415.174 [Parts 170, 172, and 174].

(4) Coverage shall be limited to services identified in 907 KAR 1:626, Section 3, in the following CDT categories:

(a) Diagnostic;

(b) Preventive;

(c) Restorative;

(d) Endodontics;

(e) Periodontics;

(f) Removable prosthodontics;

(g) Maxillofacial prosthetics;

(h) Oral and maxillofacial surgery;

(i) Orthodontics; or

(j) Adjunctive general services.

Section 5. Diagnostic Service Coverage Limitations. (1)(a) Coverage for a comprehensive oral evaluation shall be limited to one (1) per twelve (12) month period, per recipient, per provider; and

(b) A comprehensive oral evaluation shall not be covered in conjunction with the following:

1. A limited oral evaluation for trauma related injuries;

2. Space maintainers;

3. Root canal therapy;

4. Denture relining;

5. Transitional appliances;

6. A prosthodontic service;



7. Temporomandibular joint therapy;

8. An orthodontic service;

9. Palliative treatment; or

10. A hospital call.

(2)(a) Coverage for a limited oral evaluation shall:

1. Be limited to a trauma related injury;

2. Be limited to one (1) per date of service, per recipient, per provider; and

3. Require a prepayment review; and

(b) A limited oral evaluation shall not be covered in conjunction with another service except for:

1. A periapical x-ray;

2. Bitewing x-rays;

3. A panoramic x-ray;

4. Resin, anterior;

5. A simple extraction;

6. Surgical removal of a residual tooth root;

7. Removal of a foreign body;

8. Suture of a recent small wound; or

9. Intravenous sedation.

(3) The following limitations shall apply to coverage of a radiograph service:

(a) Bitewing x-rays shall be limited to four (4) per twelve (12) month period, per recipient, per provider;

(b) Periapical x-rays shall be limited to fourteen (14) per twelve (12) month period, per recipient, per provider;

(c) An intraoral complete x-ray series shall be limited to one (1) per twelve (12) month period, per recipient, per provider;

(d) Periapical and bitewing x-rays shall not be covered in the same twelve (12) month period as an intraoral complete x-ray series per recipient, per provider;

(e) A panoramic film shall:

1. Be limited to one (1) per twenty-four (24) month period, per recipient, per provider; and

2. Require prior authorization in accordance with Section 15(2) and (3) of this administrative regulation for a recipient under age six (6);

(f) A cephalometric film shall be limited to one (1) per twenty-four (24) month period, per recipient, per provider; or

(g) Cephalometric and panoramic x-rays shall not be covered in conjunction with a comprehensive orthodontic consultation.

Section 6. Preventive Service Coverage Limitations. (1)(a) Coverage of a prophylaxis shall be limited to one (1) per twelve (12) month period, per recipient; and

(b) A prophylaxis shall not be covered in conjunction with periodontal scaling and root planing.

(2)(a) Coverage of a sealant shall be limited to:

1. A recipient age five (5) through twenty (20) years;

2. Each six (6) and twelve (12) year molar once every four (4) years with a lifetime limit of three (3) sealants per tooth, per recipient; and

3. An occlusal surface that is noncarious;

(b) A sealant shall not be covered in conjunction with a restorative procedure for the same tooth on the same date of service; and

(c) A provider shall be responsible for maintaining a sealant for four (4) years at no additional expense to the recipient or the department.

(3)(a) Coverage of a space maintainer shall be limited to a recipient under age twenty-one (21); and

(b) Require the following:

1. Fabrication;

2. Insertion;

3. Follow-up visits;

4. Adjustments; and

5. Documentation in the recipient's medical record to:

a. Substantiate the use for maintenance of existing intertooth space; and

b. Support the diagnosis and a plan of treatment that includes follow-up visits.

(c) The date of service for a space maintainer shall be considered to be the date the appliance is placed on the recipient.

(d) Coverage of a space maintainer, an appliance therapy

specified in the CDT orthodontic category, or a combination thereof shall not exceed two (2) per twelve (12) month period, per recipient.

Section 7. Restorative Service Coverage Limitations. (1) A four (4) or more surface resin-based anterior composite procedure shall not be covered if performed for the purpose of cosmetic bonding or veneering.

(2) Coverage of a prefabricated crown shall be:

(a) Limited to a recipient under age twenty-one (21); and

(b) Inclusive of any procedure performed for restoration of the same tooth.

(3) Coverage of a pin retention procedure shall be limited to:

(a) A permanent molar;

(b) One (1) per tooth, per date of service, per recipient; and

(c) Two (2) per permanent molar, per recipient.

(4) Coverage of a restorative procedure performed in conjunction with a pin retention procedure shall be limited to one (1) of the following:

(a) An amalgam, three (3) or more surfaces;

(b) A permanent prefabricated resin crown; or

(c) A prefabricated stainless steel crown.

Section 8. Endodontic Service Coverage Limitations. (1) Coverage of the following endodontic procedures shall be limited to a recipient under age twenty-one (21):

(a) A pulp cap direct;

(b) Therapeutic pulpotomy; or

(c) Root canal therapy.

(2) A therapeutic pulpotomy shall not be covered if performed in conjunction with root canal therapy.

(3)(a) Coverage of root canal therapy shall require:

1. Treatment of the entire tooth;

2. Completion of the therapy; and

3. An x-ray taken before and after completion of therapy.

(b) The following root canal therapy shall not be covered:

1. The Sargenti method of root canal treatment; or

2. A root canal on one (1) root of a molar.

Section 9. Periodontic Service Coverage Limitations. (1) Coverage of a gingivectomy or gingivoplasty procedure shall require prepayment review and shall be limited to:

(a) A recipient with gingival overgrowth due to a:

1. Congenital condition;

2. Hereditary condition; or

3. Drug-induced condition; and

(b) One (1) per tooth or per quadrant, per provider, per twelve (12) month period.

1. Coverage of a quadrant procedure shall require a minimum of a three (3) tooth area within the same quadrant.

2. Coverage of a per-tooth procedure shall be limited to no more than two (2) teeth within the same quadrant.

(2) Coverage of a gingivectomy or gingivoplasty procedure shall require documentation in the recipient's medical record that includes:

(a) Pocket-depth measurements;

(b) A history of nonsurgical services; and

(c) Prognosis.

(3) Coverage for a periodontal scaling and root planing procedure shall:

(a) Not exceed one (1) per quadrant, per twelve (12) months, per recipient, per provider;

(b) Require prior authorization in accordance with Section 15(2) and (4) of this administrative regulation; and

(c) Require documentation to include:

1. A periapical film or bitewing x-ray; and

2. Periodontal charting of preoperative pocket depths.

(4) Coverage of a quadrant procedure shall require a minimum of a three (3) tooth area within the same quadrant.

(5) Periodontal scaling and root planing shall not be covered if performed in conjunction with dental prophylaxis.

Section 10. Prosthodontic Service Coverage Limitations. (1) A removable prosthodontic or denture repair shall be limited to a



recipient under age twenty-one (21).

(2) A denture repair in the following categories shall not exceed three (3) repairs per twelve (12) month period, per recipient:

(a) Repair resin denture base; and

(b) Repair cast framework.

(3) Coverage for the following services shall not exceed one (1) per twelve (12) month period, per recipient:

(a) Replacement of a broken tooth on a denture;

(b) Laboratory relining of:

1. Maxillary dentures; or

2. Mandibular dentures;

(c) An interim maxillary partial denture; or

(d) An interim mandibular partial denture.

(4) An interim maxillary or mandibular partial denture shall be limited to use:

(a) During a transition period from a primary dentition to a permanent dentition;

(b) For space maintenance or space management; or

(c) As interceptive or preventive orthodontics.

Section 11. Maxillofacial Prosthetic Service Coverage Limitations. The following services shall be covered if provided by a board certified prosthodontist:

(1) A nasal prosthesis;

(2) An auricular prosthesis;

(3) A facial prosthesis;

(4) A mandibular resection prosthesis;

(5) A pediatric speech aid;

(6) An adult speech aid;

(7) A palatal augmentation prosthesis;

(8) A palatal lift prosthesis;

(9) An oral surgical splint; or

(10) An unspecified maxillofacial prosthetic.

Section 12. Oral and Maxillofacial Service Coverage Limitations. (1) The simple use of a dental elevator shall not constitute a surgical extraction.

(2) Root removal shall not be covered on the same date of service as the extraction of the same tooth.

(3) Coverage of surgical access of an unerupted tooth shall:

(a) Be limited to exposure of the tooth for orthodontic treatment; and

(b) Require prepayment review.

(4) Coverage of alveoplasty shall:

(a) Be limited to one (1) per quadrant, per lifetime, per recipient; and

(b) Require a minimum of a three (3) tooth area within the same quadrant.

(5) An occlusal orthotic device shall:

(a) Be covered for temporomandibular joint therapy;

(b) Require prior authorization in accordance with Section 15(2) and (5) of this administrative regulation;

(c) Be limited to a recipient under age twenty-one (21); and

(d) Be limited to one (1) per lifetime, per recipient.

(6) Frenulectomy shall be limited to one (1) per date of service.

(7) Except as specified in subsection (8) of this section, a service provided by an oral surgeon shall be covered in accordance with 907 KAR 3:005, Physicians' services.

(8) If performed by an oral surgeon, coverage of a service identified in CDT shall be limited to:

(a) Extractions;

(b) Impactions; and

(c) Surgical access of an unerupted tooth.

Section 13. Orthodontic Service Coverage Limitations. (1) Coverage of an orthodontic service shall:

(a) Be limited to a recipient under age twenty-one (21); and

(b) Require prior authorization.

(2) The combination of space maintainers and appliance therapy shall be limited to two (2) per twelve (12) month period, per recipient.

(3) Space maintainers and appliance therapy shall not be covered in conjunction with comprehensive orthodontics.

(4) The department shall only cover new orthodontic brackets

or appliances.

(5) An appliance for minor tooth guidance shall not be covered for the control of harmful habits.

(6) In addition to the limitations specified in subsection (1) of this section, a comprehensive orthodontic service shall:

(a) Require a referral by a dentist; and

(b) Be limited to:

1. The correction of a disabling malocclusion; or

2. Transitional or full permanent dentition unless for treatment of a cleft palate or severe facial anomaly.

(7) Coverage of comprehensive orthodontic treatment shall not be inclusive of orthognathic surgery.

(8) If comprehensive orthodontic treatment is discontinued prior to completion, the provider shall submit to the department:

(a) A referral form, if applicable; and

(b) A letter detailing:

1. Treatment provided, including dates of service;

2. Current treatment status of the patient; and

3. Charges for treatment provided.

(9) Remaining portions of comprehensive orthodontic treatment may be authorized for prorated coverage upon submission of prior authorization requirements specified in Section 15(2) and (7) of this administrative regulation if treatment:

(a) Is transferred to another provider; or

(b) Began prior to Medicaid eligibility.

Section 14. Adjunctive General Service Coverage Limitations.

(1)(a) Coverage of palliative treatment for dental pain shall be limited to one (1) per date of service, per recipient, per provider.

(b) Palliative treatment for dental pain shall not be covered in conjunction with another service except radiographs.

(2)(a) Coverage of a hospital call shall be limited to one (1) per date of service, per recipient, per provider.

(b) A hospital call shall not be covered in conjunction with:

1. Limited oral evaluation;

2. Comprehensive oral evaluation; or

3. Treatment of dental pain.

(3)(a) Coverage of intravenous sedation shall be limited to a recipient under age twenty-one (21).

(b) Intravenous sedation shall not be covered for local anesthesia or nitrous oxide.

Section 15. Prior Authorization. (1) Prior authorization shall be required for the following:

(a) A panoramic film for a recipient under age six (6);

(b) Periodontal scaling and root planing;

(c) An occlusal orthotic device;

(d) A preorthodontic treatment visit;

(e) Removable appliance therapy;

(f) Fixed appliance therapy; or

(g) A comprehensive orthodontic service.

(2) A provider shall request prior authorization by submitting the following information to the department:

(a) A MAP-9, Prior Authorization for Health Services;

(b) Additional forms or information as specified in subsections (3) through (7) of this section; and

(c) Additional information required to establish medical necessity if requested by the department.

(3) A request for prior authorization of a panoramic film shall include a letter of medical necessity.

(4) A request for prior authorization of periodontal scaling and root planing shall include periodontal charting of preoperative pocket depths.

(5) A request for prior authorization of an occlusal orthotic device shall include a MAP 306, Temporomandibular Joint (TMJ) Assessment Form.

(6) A request for prior authorization of removable and fixed appliance therapy shall include:

(a) A MAP 396 [336], Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) Panoramic film or intraoral complete series; and

(c) Dental models.

(7) A request for prior authorization for comprehensive orthodontic services shall include:

(a) A MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form;

(b) A MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement;

(c) Cephalometric x-rays with tracing;

(d) A panoramic x-ray;

(e) Intraoral and extraoral facial frontal and profile pictures;

(f) Occluded and trimmed dental models;

(g) An oral surgeon's pretreatment work up notes if orthognathic surgery is required;

(h) After six (6) monthly visits are completed, but not later than twelve (12) months after the banding date of service;

1. A MAP 559, Six (6) Month Orthodontic Progress Report; and

2. An additional MAP 9, Prior Authorization for Health Services; and

(i) Within three (3) months following completion of the comprehensive orthodontic treatment:

1. Beginning and final records; and

2. A MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission.

(8) Upon receipt and review of materials required in subsection (7)(a) through (g) of this section, the department may request a second opinion from another provider regarding the proposed comprehensive orthodontic treatment.

(9) If a service that requires prior authorization is provided before the prior authorization is received, the provider shall assume the financial risk that the prior authorization may not be subsequently approved.

(10) Prior authorization shall not be a guarantee of recipient eligibility. Eligibility verification shall be the responsibility of the provider.

(11) Upon review and determination by the department that removing prior authorization shall be in the best interest of Medicaid recipients, the prior authorization requirement for a specific covered benefit shall be discontinued, at which time the covered benefit shall be available to all recipients without prior authorization.

Section 16. Appeal Rights. (1) An appeal of a department decision regarding a Medicaid recipient based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a department decision regarding a Medicaid provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.

Section 17. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "MAP 9, Prior Authorization for Health Services, December 1995 edition";

(b) "MAP 9A, Kentucky Medicaid Program Orthodontic Services Agreement, December 1995 edition";

(c) "MAP 306, Temporomandibular Joint (TMJ) Assessment Form, December 1995 edition";

(d) "MAP 396, Kentucky Medicaid Program Orthodontic Evaluation Form, March 2001 edition";

(e) "MAP 559, Six (6) Month Orthodontic Progress Report, December 1995 edition"; and

(f) "MAP 700, Kentucky Medicaid Program Orthodontic Final Case Submission, December 1995 edition".

(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.

[Section 18. Effective Date. The provisions of this administrative regulation shall be effective for dates of service on and after October 16, 2003.] "Department" means the Department for Medicaid Services or its designee.

(2) "Participating" is defined in 907 KAR 1:002.

(3) "Providers" is defined in 907 KAR 1:002.

Section 2. Out of hospital Services. Payment for out of hospital services shall be limited to those procedures listed in the Dental Manual in the following categories:

- (1) Diagnostic;
- (2) Preventive;
- (3) Oral surgery;
- (4) Endodontics;
- (5) Orthodontics;
- (6) Prosthetics;
- (7) Operative; or
- (8) Other services.

Section 3. Inpatient Hospital Services. (1) Payment shall be made for hospital inpatient covered services rendered by an oral surgeon subject to the general physician limitations established in 907 KAR 3:005.

(2) Payment shall be provided for covered services rendered by a general dentist for hospital inpatient care for a patient termed to be "medically high risk," defined as:

- (a) Heart disease;
- (b) Respiratory disease;
- (c) Chronic bleeder;
- (d) Uncontrollable patient, i.e., a person with a mental or emotional disorder; or
- (e) Other, e.g., car accident, high temperature, massive infection.

Section 4. Incorporation by Reference. (1) "Dental Manual", August 1998 Edition, Department for Medicaid Services, 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.]

MIKE ROBINSON, Commissioner

MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: September 24, 2003

FILED WITH LRC: October 16, 2003 at 10 a.m.

CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH SERVICES  
Department for Medicaid Services  
Division of Financial Management  
(As Amended at ARRS, January 13, 2004)

907 KAR 1:604. Recipient cost-sharing.

RELATES TO: KRS 205.560, 205.6312, 205.6485, 42 C.F.R. 430.10, 431.51, 447.15, 447.21, 447.50, 447.52, 447.53, 447.59, 457.224, 457.505, 457.510, 457.515, 457.520, 457.530, 457.570, 42 U.S.C. 1396a, b, c, d, o, r-6, r-8

STATUTORY AUTHORITY: KRS 194A.030(2), [(3)], 194A.050(1), 205.520(3), 205.6312(5) [(6)], 205.6485(1), 42 C.F.R. 431.51, 447.15, 447.51, 447.53, 447.54, 447.55, 447.57, 457.535, 457.560, 42 U.S.C. 1396r-6(b)(5)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) 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. KRS 205.6312(5) [(7)] requires the cabinet to promulgate administrative regulations that implement copayments or other similar charges [a copayment for prescription drugs] for Medicaid recipients. KRS 205.6485(1) requires the cabinet to establish, by administrative regulation, premiums for families with children in the Kentucky Children's Health Insurance Program. 42 U.S.C. 1396r-6(b)(5) allows for a monthly premium in the second six (6) months of transitional medical assistance. This administrative regulation establishes the provisions relating to imposing and

collecting copayments and premiums from certain recipients.

Section 1. Definitions. (1) "Copayment" means that portion of the cost of a Medicaid service that a recipient is required to pay.

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Drug" means a covered drug provided in accordance with 907 KAR 1:019 for which the Department for Medicaid Services provides reimbursement.

(4) "General ophthalmological service" means a service or procedure listed under this heading in the American Medical Association's Current Procedure Terminology (CPT).

(5) "Long-term care facility" is defined by KRS 216.510(1).

(6) "Emergency service" means:

(a) A covered inpatient or outpatient service furnished by a qualified provider that is needed to evaluate or stabilize an emergency medical condition found to exist using the prudent layperson standard; or

(b) An emergency ambulance transport.

(5) "KCHIP" means the Kentucky Children's Health Insurance Program.

(7) "KCHIP Separate Insurance Program" means a health benefit program for individuals with eligibility determined in accordance with 907 KAR 4:030, Section 2.

(8) "Premium" means an amount paid periodically to purchase health care benefits.

(9) [(6)] "Postpartum period" means a period that begins on the last day of pregnancy and extends through the end of the month in which the sixty (60) day period following termination of pregnancy ends.

(7) "Recipient" means an individual who has been determined eligible to receive benefits under the state's Title XIX or Title XXI program in accordance with 907 KAR Chapters 1 through 4.

(10) "Transitional medical assistance" or "TMA" means an extension of Medicaid benefits for up to twelve (12) months for families who lose Medicaid eligibility solely because of increased earnings or hours of employment of the caretaker relative or loss of earning disregards in accordance with 907 KAR 1:011, Section 5(8)(b).

Section 2. Copayment Amounts and Exclusions. (1) Except as excluded in subsection (4) [(3)] of this section, the department shall require a recipient to make a copayment for:

(a) Each drug dispensed by a dispensing pharmacy;

(b) A service provided by:

1. An audiologist;
2. A chiropractor;
3. A dentist;
4. A hearing aid dealer;
5. An optician;
6. A podiatrist; or

(c) A general ophthalmological service provided by:

1. A physician;
2. An advanced registered nurse practitioner;
3. A primary care center or federally qualified health center;
4. A rural health clinic; or
5. An optometrist.

(2) The amount of the required copayment shall be:

(a) One (1) dollar for each drug dispensed by a dispensing pharmacy; or

(b) Two (2) dollars per recipient, per provider, per date of service for a service identified in subsection (1)(b) or [and] (c) of this section.

(3) The department shall reduce by the amount of the required copayment:

(a) A dispensing fee for a service identified in subsection (1)(a) of this section; and

(b) Reimbursement for a service identified in subsection (1)(b) or (c) of this section.

(4) [in the amount of one (1) dollar.

(2) The department shall reduce its reimbursement for a dispensing fee to a provider for a service provided under subsection (1) of this section by the amount of one (1) dollar.

(3) The department shall not require a copayment and a pro-

vider shall not collect a copayment from a recipient for:

(a) A service excluded in accordance with KRS 205.6312; [or]

(b) A service provided to a recipient who has reached his or her 18th birthday but has not turned nineteen (19) and [ever the age of eighteen (18) and under the age of nineteen (19)] who is:

1. In the custody of the state; and

2. In a foster home or residential placement facility; or.

(c) A service provided to a recipient residing in a long-term care facility.

(5)(a) Unless [(4)(a) Except as] excluded in subsection (4) [(3)] of this section, the department has determined that each [a] Medicaid recipient:

1. Should be able to pay a required copayment; and

2. Shall be responsible for a copayment.

(b) The department shall indicate on a recipient's Medical Assistance Identification card if the recipient is responsible for a copayment.

(6) [(5)] The department shall not increase its reimbursement to a provider to offset an uncollected copayment from a recipient.

[(6) Cumulative cost sharing for children who receive benefits under Title XXI, 42 U.S.C. 1397aa to 1397jj, shall be limited to five (5) percent of annual family income.]

Section 3. Provisions for Collection of Copayments. (1) A provider shall collect a copayment from a recipient in an amount and for a service described in Section 2(1) and (2) of this administrative regulation.

(2) A provider may collect the copayment at the time a service is provided or at a later date.

(3) A provider shall not refuse to provide a service if a recipient is unable to pay a required copayment. This provision shall not:

(a) Relieve a recipient of an obligation to pay a copayment; or

(b) Prevent a provider from attempting to collect a copayment.

(4) If it is the routine business practice of a provider to terminate future services to an individual with uncollected debt, the provider may include uncollected copayments under this practice.

(5) A provider shall give advanced notice to a recipient with uncollected debt before services can be terminated.

(6) A provider shall not waive a copayment obligation as imposed by the department for a recipient.

(7) A pharmacy provider or supplier, including a pharmaceutical manufacturer as defined in 42 U.S.C. 1396R-8(k)(5), or a representative, employee, independent contractor or agent of a pharmaceutical manufacturer, shall not make a copayment for a recipient.

(8) A parent or guardian shall be responsible for a copayment imposed on a dependent child under the age of twenty-one (21).

Section 4. Premiums for KCHIP Separate Insurance Program Recipients. (1) The department shall require a family with children participating in the KCHIP Separate Insurance Program to pay a premium of twenty (20) dollars per family, per month.

(2)(a) The family of a new KCHIP Separate Insurance Program eligible shall be required to pay a premium beginning with the first full month of benefits after the month of application.

(b) Benefits shall be effective with the date of application if the premium specified in paragraph (a) of this subsection has been paid.

(3) Retroactive eligibility as described in 907 KAR 1:605, Section 2(3), shall not apply to a recipient participating in the KCHIP Separate Insurance Program.

(4)(a) If a family fails to make two (2) consecutive premium payments, benefits shall be discontinued at the end of the first benefit month for which the premium has not been paid.

(b) 1. A KCHIP Separate Insurance Program recipient shall be eligible for reenrollment upon payment of the missed premium.

2. If twelve (12) months have elapsed since a missed premium, a KCHIP Separate Insurance Program recipient shall not be required to pay the missed premium before reenrolling. [A KCHIP Separate Insurance Program recipient may be eligible for reenrollment within twelve (12) months of the discontinuance if the missed premium is paid.]

Section 5. Premiums for Transitional Medical Assistance Recipients. (1) The department shall require a family receiving a second six (6) months of TMA, whose monthly countable earned income is greater than 100 percent of the federal poverty limit, to pay a premium of thirty (30) dollars per family, per month.

(2) If a TMA family fails to make two (2) consecutive premium payments, benefits shall be discontinued at the end of the benefit month for which the premium has not been paid unless the family has established to the satisfaction of the department that good cause existed for failure to pay the premium on a timely basis. Good cause shall exist under the following circumstances:

(a) An immediate family member living in the home was institutionalized or died during the payment month;

(b) The family was victim of a natural disaster including flood, storm, earthquake, or serious fire;

(c) The caretaker relative was out of town for the payment month; or

(d) The family moved and reported the move timely, but the move resulted in:

1. A delay in receiving the billing notice; or
2. Failure to receive the billing notice.

Section 6. Notices and Collection of Premiums. (1) Premiums shall be collected in the amounts and from the recipients described in Sections 4 and 5 of this administrative regulation.

(2) The department shall give advance notice of the:

(a) Premium amount; and

(b) Date the premium is due.

(3) To continue to receive benefits, a family shall pay a premium:

(a) In full; and

(b) In advance.

(4) If a family pays the required premiums semiannually or quarterly in advance, they shall receive a ten (10) percent discount.

Section 7. Cumulative Cost-sharing Maximum. (1) Cumulative cost sharing for premium payments and copayments for a family with children who receive benefits under Title XXI, 42 U.S.C. 1397aa to 1397ji, shall be limited to five (5) percent of annual family income.

(2) A monthly premium for a family who receives benefits under 42 U.S.C. 1396r-6(b) shall not exceed three (3) percent of the average gross monthly income less the average monthly costs of child care necessary for the employment of the caretaker relative.

Section 8. Provisions for Recipients in Medicaid-Managed Care. (1) If a copayment is imposed on a recipient receiving services through a managed-care entity operating in accordance with 907 KAR 1:705, it shall be in accordance with the limitations and provisions established in this administrative regulation.

(2) The premium provisions pursuant to Sections 4 and 5 of this administrative regulation shall apply to a recipient receiving services through a managed-care entity operating in accordance with 907 KAR 1:705.

(3) A six (6) month guarantee of eligibility as described in 907 KAR 1:705, Section 3(6) shall not apply to a recipient required to pay a premium pursuant to Section 4 of this administrative regulation.

Section 9. [5.] Freedom of Choice. In accordance with 42 C.F.R. 431.51, a recipient may obtain services from any qualified provider who is willing to provide services to that particular recipient.

Section 10. Notice of Discontinuance, Hearings, and Appeal Rights. (1) The department shall give notice of, and an opportunity to pay, past due premiums prior to discontinuance of benefits for nonpayment of a premium.

(2)(a) If a family's income has declined, the family shall submit documentation showing the decline in income.

(b) Following receipt of the documentation, the department shall determine if the family is required to pay the premiums established in Section 4 or 5 of this administrative regulation using the new income level.

(c) If the family is required to pay the premium and the premium has not been paid, the benefits shall be discontinued in accordance with Section 4(4)(a) or 5(2) of this administrative regulation.

(d) If the family is not required to pay the premium, benefits shall be continued under an appropriate eligibility category. [The department shall provide a family an opportunity to prove its income has declined and, therefore, it is no longer subject to premiums in accordance with this administrative regulation prior to discontinuance of benefits for nonpayment of a premium.]

(3) The department shall provide the recipient with an opportunity for a hearing in accordance with 907 KAR 1:560 upon discontinuing benefits for nonpayment of premiums.

(4) An appeal of a department decision regarding the Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

MIKE ROBINSON, Commissioner

MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: October 13, 2003

FILED WITH LRC: October 31, 2003 at 11 a.m.

CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH SERVICES  
Department for Medicaid Services  
Division of Physicians and Specialty Services  
(As Amended at ARRS, January 13, 2004)

907 KAR 1:626. Reimbursement of dental services.

RELATES TO: KRS 205.520, 42 C.F.R. 440.100, 447.200-205 [Subpart B], 42 U.S.C. 1396a-d

STATUTORY AUTHORITY: KRS 194A.030(2) [(3)], 194A.050(1), 205.520(3) [2000 Ky. Acts ch. 549, Part IX, 22, b.]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the method for determining the amount payable by the cabinet for a dental service.

Section 1. Definitions. (1) "Comprehensive orthodontic procedure" means a medically-necessary dental service for a dentofacial malocclusion which requires the application of braces for correction.

(2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or services.

(3) "Department" means the Department for Medicaid Services or its designated agent.

(4) "Incidental" means that a medical procedure is performed at the same time as a primary procedure and:

(a) Requires little additional practitioner resources; or  
(b) Is clinically integral to the performance of the primary procedure.

(5) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(6) "Manually priced" or "MP" means that a procedure is priced according to complexity.

(7) [(3)] "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(8) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with one another during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CDT codes; or

(d) Are described in CDT as inappropriate coding of procedure combinations.

(9) "Prepayment review" or "PPR" means a departmental review process of a claim to determine if the requirements established in 907 KAR 1:026 have been met prior to authorizing payment.

(10) [(4)] "Prior authorization" or "PA" means approval which a provider shall obtain from the department before being reimbursed [Medicaid will consider reimbursement] for a covered service.

(11) "Provider" is defined in KRS 205.8451(7).

(12) [(5)] "Recipient" is defined in KRS 205.8451(9).

(13) "Timely filing" means receipt of a claim by Medicaid:

(a) Within twelve (12) months of the date the service was [is] provided;

(b) Within twelve (12) months of the date retroactive eligibility was [is] established; or

(c) Within six (6) months of the Medicare adjudication date if the service was [is] billed to Medicare.

(14) [(6)] "Usual and customary charge" means the uniform amount which the individual dentist charges in the majority of cases for a specific dental procedure or service.

Section 2. Reimbursement. (1) [Medicaid] Reimbursement for a covered service shall be the lesser of the:

(a) Dentist's usual and customary [actual billed] charge;

(b) [-not to exceed the] Reimbursement limits specified in Sections 3 and 4 [and 5] of this administrative regulation;

(c) A manually priced amount; or

(d) A prior authorized fee.

(2) If a rate [an upper limit] has not been established for a covered dental service, the department shall set an [a reasonable maximum] upper limit for the procedure by:

(a) Averaging the reimbursement rates assigned to [-An upper limit shall be determined based upon a review of reimbursement rates for] the service by three (3) other payer or provider sources; [;] and

(b) Comparing the calculated average obtained from these three (3) rates to rates of [the average reimbursement shall be compared with] similar procedures paid by the department [to set the upper limit for the procedure].

(3) In accordance with 907 KAR 1:604, if a copayment is required, reimbursement shall be reduced by the amount of the copayment.

(4) For a service covered under Medicare Part B, reimbursement shall be in accordance with 907 KAR 1:006.

(5) A service which is not billed within timely filing requirements shall not be reimbursed.

(6) If performed concurrently, separate reimbursement shall not be made for a procedure that has been determined by the department to be incidental, integral, or mutually exclusive to another procedure.

[Section 3. Hospital Care. (1) A service provided in an inpatient setting shall be paid in accordance with Section 2 of this administrative regulation.

(2) A dentist submitting a claim for a service provided in an inpatient setting shall agree to accept Medicaid reimbursement as payment in full for the service.

(3) Medicaid reimbursement shall be made for a medically necessary covered dental service provided by a dentist in an inpatient or outpatient hospital setting if:

(a) A Medicaid recipient has a physical, mental, or behavioral condition that would jeopardize the recipient's health and safety if a dental service were provided in a dental office or clinic setting; and

(b) In accordance with generally accepted standards of dental practice, the dental service is customarily provided in an inpatient or outpatient setting.

Section 4. Reimbursement Exceptions. A comprehensive orthodontic procedure shall require prior authorization. If a comprehensive

orthodontic procedure is prior authorized, the department shall pay as follows:

(1) Except as specified in subsection (2) of this section, an orthodontic consultation, including examination and development of a treatment plan, \$112;

(2) The Medicaid reimbursement rate for an orthodontic consultation shall not exceed fifty six (56) dollars if:

(a) The provider determines that comprehensive orthodontic treatment services are not needed or the provider is unable or unwilling to provide the needed orthodontic treatment services; or

(b) Prior authorization for comprehensive orthodontic services is not approved by the department or is not requested by the provider;

(3) A service for an early phase of moderately severe or severe disabling malocclusion, \$1,367 for an orthodontist and \$1,234 for a general dentist;

(4) A service for a moderately severe disabling malocclusion, \$1,825 for an orthodontist and \$1,659 for a general dentist; and

(5) A service for a severe disabling malocclusion, \$2,754 for an orthodontist and \$2,455 for a general dentist.]

Section 3. [5-] Reimbursement Rates for Dental Services. (1) [Except as specified in Section 4 of this administrative regulation,] The following maximum upper limits for reimbursement shall be applicable:

Kentucky Medicaid Dental Services		
Description	Upper Limit	
<b>Diagnostic Procedures</b>		
Limited oral evaluation (Emergency call) (trauma related injuries only)	\$33	PPR required
Comprehensive oral evaluation	\$26	
Intraoral complete series	\$49	
Intraoral periapical, first film	\$8	
Intraoral periapical, each additional film	\$6	
Bitewing, single film	\$7	
Bitewing, 2 films	\$14	
Bitewing, 4 films	\$23	
Panoramic film	\$39	PA required for ages 5 and under
Cephalometric film	\$47	
<b>Preventative Procedures</b>		
Prophylaxis, 14 and over	\$37	
Prophylaxis, 13 and under	\$37	
Sealant per tooth (ages 5-20)	\$15	
Space maintainer, fixed unilateral	\$104	
Space maintainer, fixed bilateral	\$202	
Space maintainer, removable unilateral	\$134	
Space maintainer, removable bilateral	\$202	
<b>Restorative Procedures</b>		
[Amalgam, 1 surface, primary	\$38	
Amalgam, 2 surfaces, primary	\$48	
Amalgam, 3 surfaces, primary	\$57	
Amalgam, 4 or more surfaces, primary	\$67]	
Amalgam, 1 surface[-permanent]	\$38	
Amalgam, 2 surfaces[-permanent]	\$50	
Amalgam, 3 surfaces[-permanent]	\$59	
Amalgam, 4 or more surfaces[-permanent]	\$72	
Resin, 1 surface, anterior	\$44	
Resin, 2 surfaces, anterior	\$55	
Resin, 3 surfaces, anterior	\$66	
Resin, 4 or more surfaces, anterior	\$78	
[Resin, 1 surface, posterior primary	\$44	
Resin, 2 surfaces, posterior primary	\$55	
Resin, 3 or more surfaces, posterior primary	\$66]	
Resin, 1 surface, posterior [permanent]	\$44	
Resin, 2 surfaces, posterior [permanent]	\$55	
Resin, 3 [or more] surfaces, posterior [permanent]	\$66	

**VOLUME 30, NUMBER 8 – FEBRUARY 1, 2004**

Resin, 4 or more surfaces, posterior	\$78	
Prefab stainless steel crown primary	\$92	
Prefab stainless steel crown permanent	\$103	
Prefab resin crown	\$87	
Pin retention, per tooth, in add. to resto- ration	\$13	
<b>Endodontic Procedures</b>		
Pulp cap direct	\$17	
Therapeutic [Vital] pulpotomy	\$52	
Root canal therapy anterior	\$211	
Root canal therapy bicuspid	\$265	
Root canal therapy molar	\$370	
Apicoectomy anterior	\$155	
Apicoectomy, bicuspid first root	\$155	
Apicoectomy, molar first root	\$155	
Apicoectomy, per tooth each additional root	\$197	
<b>Periodontic Procedures</b>		
Gingivectomy, gingivoplasty per quad- rant	\$259	PPR re- quired
Gingivectomy, gingivoplasty per tooth	\$104	PPR re- quired
Periodontal scaling and root planing per quadrant	\$78	PA re- quired
<b>Removable Prosthodontic Procedures</b>		
Replace missing or broken teeth on [or] denture	\$31	
Repair resin denture base	\$47	
Repair cast framework	\$75	
Replace [Repair] broken teeth, per tooth [or denture]	\$28	
Reline complete maxillary denture	\$99	
Reline complete mandibular denture	\$99	
Interim partial [Transitional appliance] upper	\$246	
Interim partial [Transitional appliance] lower	\$259	
<b>Maxillofacial Prosthetic Procedures</b>		
Nasal prosthesis	\$2,036	
Auricular prosthesis	\$1,881	
Facial prosthesis	\$3,408	
Obturator (temporary)	\$863	
Obturator (permanent)	\$1,992	
Mandibular resection prosthesis	\$1,660	
Speech aid-pediatric (13 and under)	\$2,036	
Speech aid-adult (14 and over)	\$2,036	
Palatal augmentation prosthesis	\$1,550	
Palatal lift prosthesis	\$1,836	
Oral surgical splint	\$896	
Unspecified maxillofacial prosthetic procedure	MP	PPR re- quired
<b>Oral and Maxillofacial Surgery Proce- dures</b>		
Extraction, deciduous [single] tooth	\$38	
Extraction, erupted [each—additional] tooth or exposed root	\$38 [35]	
[Root removal, exposed roots	\$44]	
Surgical removal of erupted tooth	\$72	
Removal of impacted tooth (soft tissue)	\$98	
Removal of impacted tooth (partially bony)	\$138	
Removal of impacted tooth (completely bony)	\$166	
Removal of impacted tooth (comp. bony or unusual)	\$171	
Surgical access of an unerupted tooth	MP	PPR re- quired
Surgical removal of residual tooth roots	\$83	
Oroantral fistula closure	\$104	
Alveoplasty in conjunction with extrac- tion per quadrant	\$78	

Alveoplasty not in conjunction with extraction per quadrant	\$78	
Excision of benign lesion [tumor]	\$67	
Incision and drainage of abscess (in- traoral)	\$52	
Incision and drainage of abscess (ex- traoral)	\$62	
Removal of foreign body	\$155	
Temporomandibular splint therapy	\$424	PA re- quired
Suture of recent small wound	\$52	
Frenulectomy	\$129	
<b>Orthodontic Procedures</b>		
Removable appliance therapy	\$362	PA re- quired
Fixed appliance therapy	\$259	PA re- quired
Preorthodontic exam and treatment plan	PA Fee	PA re- quired
Orthodontic treatment	PA Fee	PA re- quired
Unspecified orthodontic procedure-final 1/3	PA Fee	PA re- quired
<b>Adjunctive General Services</b>		
Palliative [visit (treatment of dental oral pain)]	\$21	
Intravenous sedation	\$122	
Hospital call	\$52	

(2) A comprehensive orthodontic procedure shall be reim-  
bursed as follows:

(a) Except as specified in paragraph (b) [b] of this subsection,  
an orthodontic consultation, including examination and develop-  
ment of a treatment plan, \$112;

(b) The Medicaid reimbursement rate for an orthodontic con-  
sultation shall not exceed fifty-six (56) dollars if:

1. The provider determines that comprehensive orthodontic  
treatment services are not needed;

2. The provider is unable or unwilling to provide the needed  
orthodontic treatment services; or

3. Prior authorization for comprehensive orthodontic services is  
not approved by the department or is not requested by the pro-  
vider;

(c) A service for an early phase of moderately severe or severe  
disabling malocclusion:

1. \$1,367 for an orthodontist; or

2. \$1,234 for a general dentist;

(d) A service for a moderately severe disabling malocclusion:

1. \$1,825 for an orthodontist; or

2. \$1,659 for a general dentist; or

(e) A service for a severe disabling malocclusion:

1. \$2,754 for an orthodontist; or

2. \$2,455 for a general dentist.

(3) Reimbursement for comprehensive orthodontic treatment  
shall consist of two (2) payments:

(a) The first payment shall be two-thirds (2/3) of the prior  
authorized payment amount; [and]

(b) The second payment shall:

1. Be one-third (1/3) of the prior authorized payment amount;  
and

2. Not be billed until six (6) monthly visits are completed fol-  
lowing the banding date; and

(c) The two (2) payments shall be inclusive of all services as-  
sociated with the comprehensive orthodontic treatment.

Section 4. [6-] Oral Surgeons. Except for a service specified in  
907 KAR 1:026, Section 12(8), a service [Services] provided by an  
oral surgeon shall be reimbursed in accordance with 907 KAR  
3:010.

Section 5. [7-] Supplemental Payments. (1) In addition to a  
payment made pursuant to Sections 2 through 4 [6] of this admin-  
istrative regulation, the department shall make a supplemental



payment to a dental school faculty dentist who is employed by a state-supported school of dentistry in Kentucky.

(2) The supplemental payment shall be ~~[made for a service provided on or after April 2, 2004]:~~

(a) In an amount which when combined with other payments made in accordance with this administrative regulation, does not exceed the dentist's charge for a service he has provided:

1. As a dental school faculty; and  
2. For which the payment is made directly or indirectly to the dental school;

(b) Based on the funding made available through an intergovernmental transfer of funds for this purpose by a state-supported school of dentistry in Kentucky; and

(c) Made on a quarterly basis.

~~[Section 8. Third party Liability. Nonduplication of payments and third party liability shall be in accordance with 907 KAR 1:005.]~~

Section 6. ~~[9.]~~ 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 department decision [negative action taken by the department] regarding a Medicaid provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.~~

~~[Section 7. Effective Date. The provisions of this administrative regulation shall be effective for dates of service on and after October 16, 2003.]~~

MIKE ROBINSON, Commissioner

MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: September 24, 2003

FILED WITH LRC: October 16, 2003

CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

#### CABINET FOR HEALTH SERVICES

Department for Mental Health and Mental Retardation Services  
(As Amended at ARRS, January 13, 2004)

908 KAR 1:340. Narcotic treatment programs.

RELATES TO: KRS 218A.180, Chapter 222, 315.020, 42 C.F.R. Part 8 [21 C.F.R. Parts 291, 1304]

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 222.231, 42 C.F.R. Part 8 [21 C.F.R. Parts 291, 1304]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050 and 222.231 authorize the Cabinet for Health Services to establish guidelines and provide for the systematic evaluation of effectiveness of narcotic treatment programs. This administrative regulation establishes the State Narcotic Authority with the Division of Substance Abuse, within the Department for Mental Health and Mental Retardation Services, and establishes licensure and operations requirements for narcotic treatment programs.

Section 1. Definitions. (1) "Administrative detoxification" means the detoxification from the approved controlled substance for the safety and well being of the client, other clients, and staff of the narcotic treatment program.

(2) "Approved controlled substance" means the drugs methadone except for [(powdered methadone, [is not an approved controlled substance])] or ORLAAM [(brand of levomethadyl acetate hydrochloride; levo-alpha-acetylmethadol hydrochloride)] used in the treatment of narcotic addiction.

(3) "CHS or cabinet" means the Cabinet For Health Services.

(4) "Client" means any individual who receives a controlled substance for the purpose of maintenance or detoxification in an

NTP.

(5) "CSAT means the Center for Substance Abuse Treatment."

(6) DEA" means the Drug Enforcement Administration.

(7) [(6)] "Dose" means a one (1) day quantity of an approved controlled substance, administered on site, in not less than one (1) fluid ounce of an oral solution, formulated to minimize misuse by injection.

(8) [(7)] "Drug screening" means the process by which a program determines the presence or the absence of drugs in the body fluids.

~~[(8) "FDA" means the Food and Drug Administration.]~~

(9) "Main program" means the location where all administrative and medical information related to the narcotic treatment program is retained for the purpose of on-site reviews by federal agencies or the state narcotic authority.

(10) "Medication station" means any dosing location that obtains its drug supply from the main program site and retains all records (except dosing, urine screens) at the main location.

(11) "Narcotic detoxification program" means a program using approved controlled substances in continually reducing dosages over a period of time for the purpose of relieving or reducing withdrawal symptoms.

(12) "Narcotic maintenance" means a treatment procedure using an approved controlled substance over a period of time to relieve withdrawal symptoms, reduce narcotic craving, and permit normal functioning so that, in combination with rehabilitation services, clients can develop a productive lifestyle.

(13) "Narcotic treatment program" or "NTP" means a substance abuse program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin or any derivative or synthetic drug of that group.

(14) "ORLAAM" means a brand of levomethadyl acetate hydrochloride; levo-alpha-acetylmethadol hydrochloride.

(15) "Phase treatment" means the client's progress through treatment in a graduated sequence system.

(16) [(15)] "Program sponsor" means a person or representative of an individual or entity who assumes responsibilities for the operation of a narcotic treatment program and [as well as being responsible] for the on-site conduct of all employees, and other persons providing services, and ensures that the program is operated in compliance with this administrative regulation.

(17) [(16)] "Proposed program" means an individual or entity in the process of seeking a narcotic treatment license.

(18) [(17)] "Public health director" means the director of the local public health department.

(19) [(18)] "SNA" means the State Narcotic Authority.

(20) [(19)] "Take-home dose" means a quantity of an approved controlled substance which the client is eligible to take off site.

(21) [(20)] "Voluntary detoxification" means a client requested, physician supervised withdrawal from the approved controlled substance.

Section 2. State Narcotic Authority. The SNA shall be the Director, Division of Substance Abuse, within the Department for Mental Health and Mental Retardation Services.

Section 3. Ordering of an Approved Controlled Substance. Programs shall order approved controlled substances from the manufacturer by submitting the Federal Form 222. The program sponsor or designee shall complete Form 222. ~~[Alternative Distribution System. The SNA shall establish an alternative distribution system regarding the direct shipment of methadone and ORLAAM to approved treatment programs using narcotic drugs. An approved NTP shall submit a list of personnel, with a copy of the powers of attorney that authorizes them to sign order forms and receive shipments of controlled substances, pursuant to 21 C.F.R. 1305.03, 1305.04, 1305.07, to the Hazelwood Center. The program sponsor shall not designate staff other than a physician, registered nurse, licensed practical nurse, or pharmacist to sign for or receive shipments of controlled substances. The program sponsor shall submit a completed federal form 222 to Hazelwood Center, 1800 Bluegrass Avenue, Louisville, Kentucky 40202 to obtain~~



methadone or ORLAAM.]

Section 4. Application to Operate a NTP. (1) A proposed program desiring to operate a NTP shall meet the requirements of this administrative regulation, and shall be licensed in accordance with KRS 222.231(12) [222.031(12)] and 908 KAR 1:370 [908 KAR 1:150 through 1:260] prior to application.

(2) The proposed program shall submit each staff member's, including the program sponsor, administrator, and all other personnel, profile and resume of educational and professional experience, including Social Security numbers and date of birth.

(a) If the program is a corporation or partnership, the application shall list all partners' and members' names, addresses, dates of birth, and Social Security numbers.

(b) Failure to provide this information shall disqualify the application for further review.

(3) The proposed program shall submit or cause to be submitted on its behalf to the SNA a written protocol which shall serve as an application for licensure by the SNA. This protocol shall include the following:

(a) A plan of operation;

(b) A description of the geographic area to be served by the program;

(c) Population and area to be served;

(d) The estimated number of persons, in the described area, addicted to heroin or other morphine-like drugs and an explanation of the basis of the estimate;

(e) The estimated number of persons in the described area addicted to heroin or other morphine-like drugs presently under treatment in methadone and other treatment programs;

(f) The number of patients in narcotic treatment, projected rate of intake, and factors controlling projected intake;

(g) Program goal;

(h) Plan for evaluation;

(i) Memoranda of agreement which reflect supportive services from the administrative head of the following agencies:

1. Hospitals;

2. Local law enforcement including jails;

3. Community mental health and mental retardation agencies;

4. Private, for-profit alcohol and drug services and publicly funded alcohol and drug services;

5. Department of Vocational Rehabilitation Services; and

6. Private, for-profit mental health counseling services;

(j) Client identification system;

(k) System to prevent client's multiple program registration;

(l) Organizational chart which includes the persons responsible for the program;

(m) First year budget, which list available, pending, or projected funds;

(n) Copies of letters verifying funding;

(o) Schedule of the amount of the client fees;

(p) Duties and responsibilities of each staff member and the relationship between the staffing pattern and the treatment goals;

(q) Duties and responsibilities of the medical director;

(r) Plan for delegation of the medical director's duties, if appropriate;

(s) Training and experience of counselors and therapists;

(t) Counselor and therapist caseload;

(u) Procedures and criteria for client selection;

(v) Program rules and instructions;

(w) Facility description;

(x) Initial dosage levels;

(y) Daily dosage levels;

(z) Operational procedures including the procedures to be used in inventory maintenance and daily dosing schedules;

(aa) Procedures, or documented efforts made, which provide for cooperation with local jails and hospitals for either withdrawal or maintenance while in custody or hospitalized in the event of client incarceration or hospitalization;

(bb) Procedures in the event of state or national or manmade emergency or disaster.

(cc) Urinalysis procedures which utilize random selection or unannounced collection;

(dd) Procedures for scheduled termination, voluntary termina-

tion, and involuntary termination for cause, including reasons for termination for cause;

(ee) Fair hearing procedures for client grievances;

(ff) Copies of all forms developed and to be used by the proposed NTP;

(gg) Facility address and dimensions;

(hh) Amount of space devoted to methadone treatment, including waiting, counseling, dispensing, and storage areas;

(ii) Days and hours of dispensing;

(jj) Days and hours of other program services;

(kk) Type of services provided and the hours of use, if the facility is also used for purposes other than narcotic treatment; and

(ll) Diagram of the facility housing the NTP and an accompanying narrative which describes client flow. The diagram and narrative shall specify:

1. Waiting areas;

2. Office space;

3. Dispensing area;

4. Urine collection locations;

5. Record storage area;

6. Parking or transportation access; and

7. The relation of the services to the facility diagram.

(4) A protocol proposing a new program or a complete revision of the protocol of an approved program shall be submitted to the SNA.

(5) The proposed program shall submit written policies and procedures in accordance with Sections 6, 7, 8, 9, 10, 11, 12, 13, 14 and 16 of this administrative regulation.

Section 5. SNA Application Review Process. (1) The SNA shall review the application materials within thirty (30) working days for the following:

(a) Criminal convictions by all individuals or entities involved with the proposed program within the past five (5) years, including violations of controlled substance laws and administrative regulations;

(b) Suspension or revocation of any CSAT [FDA], DEA, state narcotic licenses, or professional licenses in the past five (5) years of any staff member including the medical director, registered nurses, licensed practical nurses and registered pharmacist; and

(c) The written monitoring reports and compliance reports of other NTPs currently operated by the applicant or by any corporation or partnership with whom the applicant has been associated in the past five (5) years. These reports shall be obtained from the DEA and CSAT [FDA] agents, medical licensing boards, pharmacy licensing boards, nursing licensing boards, and from other SNAs.

(2) The SNA shall not grant an application to operate a NTP to any applicant that has employed staff or, if applicant is a corporation or partnership, any officer of the corporation or member of the partnership who was convicted of a misdemeanor related to controlled substances laws or any felony within the last five (5) years.

(3) The SNA shall work in collaboration with the DEA and CSAT [FDA] in reviewing the proposed application. Before any narcotic license shall be issued to the proposed program, the SNA, the DEA office, and the CSAT [FDA] office shall all agree.

(4) The SNA shall conduct an on-site inspection to review the proposed program and interview the medical director, program sponsor and dosing staff.

(5) The SNA shall not approve any application for a NTP to any entity that poses a risk to the health and safety of the public based on a history of noncompliance with state and federal regulations as verified by the DEA or CSAT [FDA] or state licensure agencies in states in which the entity currently legally operates.

(6) The SNA shall respond in writing, within ten (10) working days, to the proposed program upon receipt of all reports and documents from the applicant and all agencies involved.

(7) If the application to operate the NTP is approved the SNA shall, within thirty (30) working days of the completion of the review process:

(a) Issue a letter, pending receipt of federal approval, which shall indicate the approval to operate a NTP in Kentucky and shall include, the DEA license number, the CSAT [FDA] license number, and the expiration date of the license to operate; and

(b) Assign a facility responsible for the distribution of the ap-

proved controlled substances to be used in the NTP.

(8) If the application to operate a NTP is not approved within thirty (30) working days, the SNA shall respond in writing citing the deficiencies, the requirements and time frames for taking corrective actions to make the program licensable.

(9) The proposed program shall provide a plan of correction for deficiencies cited within fifteen (15) working days from date of receipt of the written deficiencies.

Section 6. Organization and Administration Policies. (1) NTPs shall develop policies and procedures that include:

(a) Waiting list criteria;

(b) Criteria for the use of ORLAAM [(levomethadyl acetate hydrochloride; ~~levo-alpha-acetyl methadol hydrochloride~~)] for clients needing or desiring take-home doses, but who do not meet eligibility requirements for take-home doses;

(c) Policies pertaining to the preparation and labeling of client doses which shall include:

1. The quantity of approved controlled substances that is indicated on the client's narcotic sheet within the medical record;

2. Assurance that doses shall be labeled with the exact quantity of narcotic drug ordered;

3. Take-home doses shall be formulated in such a manner that shall reduce the likelihood of injecting the dose;

4. Policies that permit clients to know their dose level; and

5. Policies that shall provide for the packaging of take-home doses of the approved controlled substances in containers that meet the requirements of 15 U.S.C. 1471. The label of the doses shall include the name of the program, address and telephone number of the program, name of the controlled substance, name of the client, the name of the physician ordering the substance, and the quantity of the controlled substance, unless the client has requested in writing that the quantity of the substance not be revealed to them.

(2) The program policies shall indicate that the medical director or program physician at the individual NTP is in charge of all dose adjustments.

(3) The program policies shall indicate that dosing personnel do not alter client doses without the medical director or program physician's order.

(4) Verbal dosing orders shall be signed by the medical director or program physician within forty-eight (48) hours of the order's receipt.

(5) The medical record shall indicate any reason for dose changes and shall be signed by the medical director or program physician.

(6) Detoxification policies for voluntary and administrative detoxification shall be in compliance with 42 C.F.R. Part 8 [24 C.F.R. 294.505(d)(8) and (9)], i.e.: short-term (thirty (30) days or less), or long-term (more than thirty (30) days and as much as 180 days).

(7) Urine collection policies for drug screening purposes shall be developed to assure absence of falsification. Each sample shall be analyzed for the following drugs:

(a) Methadone;

(b) Cocaine;

(c) Opiates;

(d) Amphetamines;

(e) Barbiturates;

(f) Tetrahydrocannabinol;

(g) Benzodiazepines; and

(h) Any other drug(s) that has been determined by the NTP or the SNA to be abused in that program's locality or any other drugs that may have been abused by the client.

(8) NTPs shall have policies that prohibit procedures for offering a bounty, monetary or equipment or merchandise reward, or free services for individuals in exchange for recruitment of new clients into the program.

(9) NTPs shall assure compliance with the system of treatment phases outlined in Section 11 of this administrative regulation.

(10) NTPs shall develop quality assurance policies to assure that services provided are achieving beneficial effects for the clients using the services.

(11) Urine drug screens shall be reviewed by the treatment team monthly to determine client's reduction in the use of unau-

thorized medications.

(12) Controlled substance medications shall be considered unapproved usage if they are being used by the client without a valid prescription.

(13) A valid urine drug screen negative for the approved controlled substances, with the exception of ORLAAM, allowed to be used in the NTP shall be considered positive for unauthorized drug use.

(14) The NTP shall assure that urine drug screens are not used as the sole criteria for dismissing clients from the program.

(15) NTPs shall develop quality assurance procedures to determine the adequacy of the NTP's organization and service delivery. The assessment shall:

(a) Examine the content of the NTP's organizational and administrative structure and shall assess the following:

1. Availability of counseling services;

2. Availability of physical health services to clients;

3. Vocational training available to clients;

4. Legal assistance or referral, if indicated for the client;

5. Americans With Disabilities Act (ADA) defined accessibility in the on-site programs to the clients;

6. Quality assurance of the program services; and

7. Continuity of services and care.

(b) Be reviewed semiannually by the clinical supervisor, medical director, program sponsor, and the dosing nurse supervisor;

(c) Evaluate the following:

1. Appropriateness of the services delivered;

2. Completeness of documentation in client records;

3. Quality of and participation in staff training programs; and

4. Status of licenses and certification documents.

(16) All NTPs shall be open for dosing services seven (7) days a week with the optional exception of the following holidays:

(a) New Years Day, January 1;

(b) Presidents Day;

(c) Martin Luther King Day;

(d) Easter Sunday;

(e) Memorial Day, last Monday in May;

(f) Independence Day, July 4;

(g) Labor Day, first Monday in September;

(h) Thanksgiving Day, fourth Thursday in November; and

(i) Christmas Day, December 25.

Section 7. Personnel Policies. (1) The NTP shall have a program sponsor who shall:

(a) Assure that KRS 222.231, 908 KAR 1:370, 42 C.F.R. Part 8 [1:150 through 1:260], [21 C.F.R. 294.505(g), 1304.76], KRS Chapter 218A, 902 KAR 55:010 to 55:095 and this administrative regulation, are followed by the NTP;

(b) Have two (2) years documented experience in the treatment of addictions. The program sponsor shall be certified by the Board of Certification of Alcohol and Drug Counselors, or a physician, nurse, physician assistant, pharmacist, or nurse practitioner certified by the respective licensing subspecialty, or shall have a minimum of a masters degree in the field of addictions or related field; and

(c) Assure that clients:

1. Receive and sign written information describing all facets of the program in a manner that the client understands;

2. Have had the contents of the "Consent to Treatment with an Approved Narcotic Drug", Form FDA 2635 (7/93), communicated to them and voluntarily sign the consent to treatment;

3. Under eighteen (18) years of age, have parents or legal guardians of nonemancipated minors sign the consent to treatment;

4. Receive information on communicable diseases at admission, readmission, and at six (6) month intervals for the first two (2) years of treatment, and as indicated clinically after two (2) years. Communicable diseases shall include tuberculosis, hepatitis, sexually transmitted diseases, and HIV/AIDS; and

5. Receive HIV/AIDS pretest, posttest counseling, and provide for voluntary HIV testing at admission or when clinically indicated thereafter.

(2) The program sponsor shall assure:

(a) That professional staff in the NTP shall maintain current

credentials and that professional skills pertinent to their job descriptions shall be updated annually;

(b) That the laboratory performing the testing required under this administrative regulation is approved by the SNA, is certified by the Health Care Financing Administration as a CLIA (Clinical Laboratory Improvement Act-1988) certified laboratory, has a protocol in place that assures the integrity of the chain of custody for all urine drug tests, and an assurance that the initial test and confirmatory tests for drugs tested on behalf of the program meets the following standards;

1. Marijuana metabolites - initial screen 50ng/ml, confirmation test 15ng/ml;
2. Cocaine metabolites - initial screen 300ng/ml, confirmation test 150ng/ml;
3. Opiates metabolites - initial screen 300ng/ml, confirmation test 300ng/ml;
4. Amphetamines - initial screen 1000ng/ml, confirmation test of amphetamine 500ng/ml, and methamphetamine confirmation test 500ng/ml;
5. Barbiturates - initial screen 300ng/ml, confirmation test 300ng/ml; and
6. Benzodiazepines - initial screen 300ng/ml, confirmation test 300ng/ml.

(c) That drug test results shall not be used as the sole criteria for administratively detoxifying a client from the NTP;

(d) That when drug testing results are used, presumptive laboratory results shall be distinguished from results that are definitive;

(e) That urine samples used for drug screening purposes shall be handled in a manner that ensures client confidentiality;

(f) That client attendance shall not be revealed to any person or agency without the specific written authorization of the client, or a valid court order.

(3) NTPs shall have a medical director who shall:

(a) Be licensed by the Commonwealth of Kentucky to practice medicine within the Commonwealth and function autonomously within the NTP free from any protocol imposed by any NTP, sponsor, or any other entity except [but] under the guidelines imposed by 42 C.F.R. Part 8 [21 C.F.R. Part 294] and this administrative regulation; and

(b) Be a board eligible psychiatrist licensed to practice in Kentucky and have three (3) years documented experience in the provision of services to persons who are addicted to alcohol or other drugs; or

(c) Be a physician licensed to practice in Kentucky and certified as an addictionologist by the American Society of Addiction Medicine; and

(d) Be responsible for dosing staff in the NTP and shall be responsible for the NTPs adherence to 42 C.F.R. Part 8 [21 C.F.R. 294.505(g)], KRS Chapter 218A, 902 KAR 55:010 to 55:095, 908 KAR 1:370 [4:150 through 4:260] and this administrative regulation.

(4) NTPs may have a program physician who shall:

(a) Be licensed by the Commonwealth of Kentucky to practice medicine within the Commonwealth and function autonomously within the NTP free from any protocol imposed by any NTP, sponsor, or any other entity except [but] under the guidelines imposed by 42 C.F.R. Part 8 [21 C.F.R. Part 294] and this administrative regulation; and

(b) Be a board eligible psychiatrist licensed to practice in Kentucky and have three (3) years documented experience in the provision of services to persons who are addicted to alcohol or other drugs; or

(c) Be a physician licensed to practice in Kentucky and certified as an addictionologist by the American Society of Addiction Medicine; and

(d) Be responsible for dosing staff in the NTP and shall be responsible for the NTPs adherence to 42 C.F.R. Part 8 [21 C.F.R. 294.505(g)], KRS Chapter 218A, 902 KAR 55:010 to 55:095, 908 KAR 1:370 [4:150 through 4:260] and this administrative regulation.

(5) The medical director may be the program physician.

(6) There shall be one (1) medical director or program physician on staff for every 300 clients, or fraction thereof, enrolled in a NTP.

(7) The responsibilities of the medical director or program physician(s) shall include:

(a) Assuring there is evidence of physiologic dependence on narcotics for all clients admitted to the NTP;

(b) Assuring a history of addiction, or that any exceptions to admissions criteria are approved by the SNA and documented in the client's record before the first dose is administered;

(c) Assuring that appropriate medical histories and physical examinations have been performed before the first dose shall be administered;

(d) Assuring that appropriate laboratory studies have been performed and have a documented review by the medical director or program physician;

(e) Documenting, signing, or countersigning all medical orders, within forty-eight (48) hours, that include the first dose of narcotic drug or other approved medications;

(f) Documenting, signing, or countersigning all subsequent medication orders within forty-eight (48) hours, including dose increases and decreases, changes in frequency of take-home doses, emergency situations, or special circumstances;

(g) Assuring that information on all communicable diseases is communicated to all clients as required; and

(h) Assuring that a review and cosignatures of all telephone or other verbal orders are documented within forty-eight (48) hours of the order.

(8) The medical director or program physician at the NTP shall:

(a) Supervise clinical staff responsible for preparation and administering of the approved controlled substances; and

(b) Assure compliance with program procedures and administrative regulations;

(9) The medical director or program physician shall order all doses, all increases or decreases of doses of medications or other approved drugs for the client, through the licensed NTP.

(10) Any verbal orders shall be given to nursing or pharmacy staff and shall be cosigned by the medical director or program physician within forty-eight (48) hours of the order's receipt.

(11) The medical director or program physician shall review all laboratory testing results required by the CSAT [FDA], SNA, and testing indicated by the client's clinical record. Any specific additional laboratory testing shall be ordered by the medical director or program physician.

(12) The medical director or program physician, in determining the client's take-home medications, shall take into consideration the items addressed in 42 C.F.R. Part 8 [21 C.F.R. 294.505(d)(6)(C)(iv)(B)] and shall comply with Sections 10, 11, 12, 13 and 16 of this administrative regulation.

(13) NTPs shall provide dosing staff in sufficient numbers to meet the needs of the clients during dosing hours. Dosing staff shall:

(a) Hold a license as a registered nurse, licensed practical nurse, or pharmacist; and

(b) Not be dually assigned as counselors.

(c) Dosing physicians and pharmacists shall follow KRS 218A.180 related to labeling if [and all other parameters when] preparing doses to be taken outside the program site.

(14) Programs shall provide counselors who shall have, at a minimum, a bachelors degree in a human services related field and an alcohol and drug counselor certification from the Kentucky Board of Alcohol and Drug Counselors or be actively engaged in the certification process.

(15) There shall be one (1) counselor for every forty (40) clients in the program.

Section 8. Physical Plant. (1) The building used for the NTP shall meet requirements in 21 C.F.R. 1301.74(j) and shall have space for the following operations:

(a) The waiting area shall be large enough to accommodate the clients arriving for services.

(b) The waiting area shall be separated from the dosing area to permit each client privacy and confidentiality at the time of dosing.

(c) The dosing area shall be clean and sanitary, shall accommodate the dosing staff, and shall contain the following:

1. A stainless steel sink;
2. Hot and cold running water;

3. A refrigerator for dosing supplies; and

4. Pill-counting trays if tablets are being used.

(2) Security and floor plan of the dosing area may be unique to each program, except [but] shall conform to the requirements in 21 C.F.R. 1301.72.

(3) The NTP shall make arrangements for the facility to have two (2) restrooms which shall be handicapped accessible.

(4) The NTP shall assure that restrooms available to clients to provide urine specimens are secure, private, clean, and sanitary.

(5) The physical plant shall meet building, fire, safety, and health standards specified by state and local government laws and regulations.

(6) The physical plant shall be secured by a local security company approved by the DEA and the SNA.

(7) There shall be a minimum of two (2) panic buttons or similar devices for each NTP, one (1) in the reception area, and one (1) in the dosing area.

(8) There shall be a telephone with an outside line accessible in the dosing area.

(9) Internal security may be unique to each NTP and shall meet the requirements of 21 C.F.R. 1301.74(b), (h), (i), (j), (k); 1301.91; 1301.92 and shall be installed only after consultation with the DEA Office and the SNA.

(10) Parking space at the clinic site shall be adequate to accommodate the maximum number of clients expected to be at the clinic site at one (1) time or have specific appointment schedules to prevent the influx of clients that would be disruptive or unsafe to the surrounding community.

(11) The NTP shall comply with all local zoning and ordinance laws and requirements.

Section 9. Security and Control. (1) The security and control segment of the NTP's assessment procedure shall be conducted quarterly by the program sponsor and dosing nurse supervisor or pharmacist who shall assure that the requirements of 42 C.F.R. Part 8 [21 C.F.R. 1304.28] are met. Other items to be evaluated shall include:

(a) Security of the narcotic safe and the building perimeter shall be checked with the contracted security company at the facility location, quarterly. The security company may choose to test the system by telephone.

(b) The safe shall be locked at all times while staff are not obtaining or restocking controlled substances.

(c) Inventory reconciliation shall be conducted, at a minimum of quarterly, and all reconciliation documents shall be retained by the program for five (5) years.

(d) Five (5) percent or more of any inventory discrepancies shall be reported to the SNA and the DEA offices within forty-eight (48) hours of reconciliation.

(e) Dosing personnel shall count all new bottles of narcotic tablets before removing any for client doses. Any discrepancies shall be reported to the SNA, to the DEA and CSAT [FDA], and the Department for Health Services' Office of Drug Control, using the DEA 1305.12 (12/85) "Report of Theft or Loss of Controlled Substances" form, within forty-eight (48) hours of the event.

(f) A system shall be devised to assure the NTP completes the DEA biennial inventory of narcotic drugs on hand.

(g) Order forms for controlled substances, the dosing records, and inventory reconciliation records shall conform to 42 C.F.R. Part 8 [21 C.F.R. 1304.28] and shall be maintained in a locked, secured area separate from the storage site of the controlled substances.

(2) Utilization and effectiveness of delivered services shall be reviewed by the program sponsor and medical director annually for the following:

(a) Treatment slot utilization and cost per slot;

(b) Staff-to-client ratio;

(c) Cost per counseling session; and

(d) Cost per client for other program services.

(3) NTPs shall maintain written policies to assure the confidentiality of all client records.

(4) Quarterly, the program sponsor shall review a ten (10) percent random sample of client records for the following information and assurances:

(a) Client signed the "Consent to Treatment with an Approved Narcotic Drug," Form FDA 2635 (7/93);

(b) Client signed a release of information form, developed by the NTP, which shall include:

1. Specific type of confidential information to be obtained or released; and

2. Specific dates that the release is to cover.

(c) ~~If~~ [When] the program sponsor serves as a counselor then the medical director shall review ten (10) percent of the program sponsor's client records for the same information and assurances as cited above in paragraphs (a), (b)1 and 2 of this subsection.

(5) The NTP shall retain a copy of internal assessment documents on file, which shall be available for review by regulatory agencies for five (5) years.

(6) The NTP shall participate in the data collection system as addressed in 908 KAR 1:300.

Section 10. Admission and Readmission Policies. (1) The admitting physician for the NTP shall comply with the admission requirements of 42 C.F.R. Part 8 [21 C.F.R. 291.505(d)(1)].

(2) Exceptions to the admission requirements shall be those cited in 42 C.F.R. Part 8 [21 C.F.R. 291.505(d)(1)(C)(iii)]. Programs shall adhere to the following for pregnant clients: In order for a NTP to admit or continue to treat a client who is pregnant the medical director or program physician shall first determine and document in the client's record the following:

(a) The client is medically able to participate in the program.

(b) If the medical director or program physician does not accept the responsibility for providing prenatal care for the term of the client's pregnancy, the medical director or program physician shall refer the client to a primary care physician who practices obstetrics or an obstetrician and shall inform the attending physician of the client's participation in the NTP.

(c) ~~If~~ [In the case of] a pregnant client, the medical director or program physician shall ensure that appropriate arrangements have been made for the addition-related medical care of both the client and the child following the birth of the child.

(d) Maintenance treatment dosage levels of pregnant clients shall be maintained at the lowest possible dosage level.

(e) The program shall ensure that the following services are available for pregnant addicts and are a part of the treatment plan:

1. The medical director or program physician shall notify the pregnant client's primary care physician of any changes in the client's treatment;

2. Nutritional counseling;

3. Parenting training including newborn care, handling, health, and safety; and

4. Weekly full drug screen urinalysis;

(3) When a client applies for admission to a NTP the client shall be required to sign a release of information that authorizes a program to release or solicit information regarding the client's status in any other substance abuse program.

(4) A client who has received treatment and later voluntarily detoxified may be readmitted to a NTP without evidence to support findings of current physiologic dependence, up to two (2) years after discharge if the NTP attended is able to document prior treatment of six (6) months or more, and the admitting medical director or program physician finds readmission to the NTP to be medically justified.

(5) If a client seeks readmission to a NTP after being administratively detoxified and the medical director or program physician finds readmission to the NTP medically justified, the medical director or program physician shall document such justification in the client's medical record.

Section 11. Treatment Protocol. NTPs shall comply with the following treatment phase system to achieve the goals of reduced health problems, reduced criminal activity, increased productivity, stabilization of family life and eventual drug free living.

(1) Entry phase. The first ninety (90) days of treatment all clients shall adhere to the following:

(a) Clients shall be dosed with methadone seven (7) days at the clinic site.

(b) Clients shall be provided weekly counseling sessions to

support the implementation of their treatment plan.

(c) Clients shall be provided HIV/AIDS education and provided or referred for HIV pretest counseling and voluntary HIV testing.

(d) Clients shall be oriented to appropriate twelve (12) step programs such as narcotics anonymous or alcoholics anonymous.

(e) During the entry phase the client shall provide an observed urine sample one (1) time per week on a random basis.

(f) There shall be documentation in the client record that treatment plans shall be reviewed and updated a minimum of every thirty (30) days for three (3) months, every ninety (90) days thereafter.

(g) The medical director or program physician shall sign the treatment plan.

(2) Phase one (1). In order for a client to enter phase one (1) the client shall not have committed any program infractions (dirty urine screens, disruptive behavior at the clinic site, threats to staff or other clients, failure to attend scheduled dosing or counseling appointments) for ninety (90) consecutive days.

(a) Once the client enters phase one (1) the client shall attend clinic six (6) times each week for observed ingestion of methadone and shall be eligible to receive a one (1) day take-home dose of methadone.

(b) Clients shall be provided weekly counseling sessions to support the implementation of their treatment plan.

(c) The client shall provide an observed urine sample on a random basis at least weekly.

(d) Clients shall be encouraged to attend an appropriate twelve (12) step program.

(e) There shall be documentation in the client record that treatment plans shall be reviewed and updated every ninety (90) days. This documentation shall include a report on the client's progress in relation to his treatment plan.

(f) The medical director or program physician shall sign the treatment plan.

(3) Phase two (2). In order for the client to enter phase two (2) the client shall:

(a) Not have committed any program infractions (dirty urine screens, disruptive behavior at the clinic site, threats to staff or other clients, failure to attend scheduled dosing or counseling appointments) for 180 consecutive days;

(b) Be pursuing gainful employment or vocational training or attending school or be engaged in volunteer work, or be attending parenting classes if they are a parent at home with children. Clients with disabilities or other circumstances which might prohibit this requirement may submit a written waiver [wavier] request to the SNA justifying specific reasons for the request;

(c) Have a treatment plan to meet any special needs, including disabilities;

(d) Attend clinic five (5) times each week for observed ingestion of methadone and be eligible to receive up to two (2) days of take-home doses of methadone;

(e) Provide an observed urine sample randomly on a monthly basis, or more frequently if their treatment plan requires;

(f) Be provided monthly counseling sessions, or more frequently if their treatment plan requires;

(g) Be encouraged to attend appropriate self-help programs outside the clinic;

(h) Have documentation in the client record that treatment plans shall be reviewed and updated every ninety (90) days. This documentation shall include a report on the client's progress in relation to the treatment plan; and

(i) Have their treatment plan signed by the medical director or program physician.

(4) Phase three (3). In order for the client to enter phase three (3) the client shall:

(a) Not have committed any program infractions (dirty urine screens, disruptive behavior at the clinic site, threats to staff or other clients, failure to attend scheduled dosing or counseling appointments) for 270 consecutive days;

(b) Have met the same entry criteria requirements as noted in phase two (2);

(c) Attend clinic three (3) times each week for observed ingestion of methadone and be eligible to receive up to two (2) days of take-home doses of methadone;

(d) Provide an observed urine sample on a random basis, monthly, or more frequently if their treatment plan requires;

(e) Be provided monthly counseling sessions, or more frequently if their treatment plan requires;

(f) Be encouraged to attend appropriate self-help groups outside clinic;

(g) Have documentation in the client record that treatment plans shall be reviewed and updated every ninety (90) days. This documentation shall include a report on the client's progress in relation to their treatment plan; and

(h) Have their treatment plan signed by the medical director or program physician.

(5) Phase four (4). In order for the client to enter phase four (4), the client shall have successfully completed phase three (3) and adhered to the requirements of the maintenance treatment program for two (2) consecutive years.

(a) Clients shall be dosed at the clinic site two (2) days per week for observed ingestion of methadone and be eligible for up to three (3) take-home doses of methadone.

(b) The number of counseling sessions provided during this phase shall be based on the clinical judgement of the program physician and program staff.

(c) Requirements in the area of urine sample schedules, and treatment plan reviews remain the same as in subsection (4) of this section.

(d) Prior to successful completion of phase four (4), a plan shall be developed which shall assist the client toward a drug free treatment regimen for continued support.

(e) The medical director or program physician shall sign the treatment plan.

Section 12. Client Program Compliance. In order for a client to remain in a NTP and to successfully move through the treatment phases, clients shall be actively involved in the NTP by remaining in good standing at the clinic or risk being administratively detoxified. If a client has [~~In those instances where clients have~~] not complied with program policies:

(1) The client may be placed on a behavioral contract for a minimum of sixty (60) days during any individual program phase and shall lose all take-home dose privileges for sixty (60) days.

(2) If a client commits three (3) infractions, the medical director or program physician and staff may choose to move the client back in phases as part of the behavioral contract. The client shall lose all take-home privileges during the contract period.

(3) Following the commitment of any program infraction, the counseling staff shall assist the client in correcting the problem behavior and document this effort in the client's treatment plan.

(4) If the client continues to experience problems and breaks the behavioral contract, the client may be administratively detoxified based on the recommendation of the program physician and the program staff.

Section 13. Client Transfers. NTPs shall accept clients transferring from another program within the state, if:

(1) The NTP accepting a client voluntarily transferring from another NTP shall provide documentation that the client's medical record and reason for the transfer was sought from the client's previous NTP; and

(2) The client is in compliance with readmission policies for clients who have been administratively detoxified.

(3) In order for the client to transfer to another NTP, the following requirement shall be met:

(a) The NTP that client is leaving shall forward all relevant client records to the program where the client is transferring.

(b) The NTP shall provide documentation that the client's medical record and reason for the transfer was sought from the client's previous NTP and shall meet the admission criteria of this administrative regulation.

(c) Clients who are Kentucky residents and wish to transfer to another Kentucky-based program shall be reviewed by the new program's admission program physician or medical director on an individual basis to determine their placement on the receiving program's client listing. The review shall determine the client's need, program placement availability, and the circumstances for the

transfer request.

(d) Clients who are not Kentucky residents shall transfer to a Kentucky program as a new admission or "Entry Phase" as noted in this administrative regulation, Section 11(1) of this administrative regulation, unless other phase levels are approved by the SNA.

Section 14. Client Appeal Procedures. Decisions regarding a client's treatment by staff shall be subject to appeal by the client. Each NTP shall:

- (1) Develop an appeal procedure that shall be approved by the SNA; and
- (2) Have procedures that include a provision that a central file of all client appeals be maintained at the NTP for review by the SNA.

Section 15. Program Waiver Process. A NTP may make an application to the SNA in order to seek waivers from any requirement of this administrative regulation.

- (1) This application for a waiver shall:
  - (a) Be in the form of a letter to the SNA;
  - (b) Identify the specific sections of this administrative regulation for which a waiver is being sought; and
  - (c) Give the rationale for the [such a] request.
- (2) A copy of the waiver request and response shall become part of the client's permanent record [if applicable].
- (3) Applications for waiver requests shall be mailed to: Kentucky State Narcotic Authority, Division of Substance Abuse, 275 East Main Street, Frankfort, Kentucky 40621.
- (4) The SNA shall respond, in writing, to the waiver request within fifteen (15) working days. The SNA shall provide written justification for any waiver request that has been denied.

Section 16. Take-home Doses. (1) Under emergency conditions a program may issue fourteen (14) consecutive days of take-home doses without notification of CSAT [FDA]. The NTP shall notify the SNA and request, in writing, an exception to dosing procedures prior to administration of the first emergency dose. This request shall include:

- (a) The number of take-home doses requested;
  - (b) The reason for the request; and
  - (c) The client's standing in program phases, adherence to program policies, and the total length of time the client has been enrolled at the NTP.
- (2) The medical director or program physician may grant an exception to the criteria for take-home dosages for any of the following reasons subject to the limitations in this administrative regulation and written approval from the SNA which shall be filed in the client record:
- (a) The client has a serious physical disability which would prevent frequent visits to the program facility.
  - (b) The client is subject to an exceptional circumstance such as acute illness, family crisis, or necessary travel, where hardship would result from requiring exact compliance with the step level schedule as noted in this administrative regulation. If [When] a client must travel out of the program area, the medical director or program physician shall attempt to arrange for the client to receive his/her daily dosage at another program in lieu of increasing take-home dosages.
  - (c) The medical director or program physician shall not grant any exceptions during a calendar month which exceed three (3) exceptions or ten (10) percent of the number of patients enrolled in the program on the last day of the previous month, whichever is greater.
  - (d) The medical director or program physician shall document in the client's record the granting of any exception and the facts justifying the exception. Each program shall also maintain a separate record for all exceptions granted.
  - (e) The SNA shall not grant additional exceptions, except in cases of medical emergency or natural disaster, such as fire, flood, or earthquake.

(3) A NTP shall restrict a client's take-home dosage privileges by moving the client back at least one (1) step level on the schedule for take-home dosages if the client's urinalysis results disclose the unauthorized presence of methadone, cocaine, opiates, am-

phetamines, barbiturates, tetrahydrocannabinol, benzodiazepines, and any other drug(s) that has been determined by the NTP or SNA to be abused in that NTP's locality or any other drug(s) that may have been abused by the client twice or more in a sixty (60) day period.

(4) A NTP shall restrict a client's take-home dosage partially, by moving the client back on the take-home dosage schedule, if the medical director or program physician concludes that the client is no longer a suitable candidate or risk for take-home privileges as presently scheduled.

(5) A NTP shall revoke a client's take-home privileges for not less than thirty (30) days and shall require the client to ingest each dosage at the facility for any of the following reasons:

- (a) The client's urinalysis discloses an absence of methadone, or methadone metabolite, and the medical director confirms the accuracy of such analysis. This shall not be applicable to clients whose daily dosage is twenty-five (25) milligrams or less.
- (b) The client is discovered to be misusing methadone, as defined in paragraph (e)3 of this subsection.
- (c) The client attempts to register in another NTP.
- (d) The client alters or attempts to alter a urinalysis.
- (e) The client is not satisfactorily adhering to the requirements of the NTP by the following:
  1. The client has not complied with all the rules of the NTP.
  2. There is indication that the client has repeatedly used drugs improperly.
  3. There is indication, including appropriate urinalysis results, that the client is misusing methadone. Misuse of methadone includes sharing, giving away, selling, or trading one's methadone dosage, or not ingesting it in accordance with methadone maintenance treatment program rules.
  4. There is indication that the client is selling, distributing, or otherwise involved with illicit drugs and their use.
  5. The client is not participating in an educational, vocational, or home-making activity.

(6) A client whose take-home privileges were revoked or restricted may regain take-home privileges according to the following schedule:

- (a) Phase one (1) by satisfactory adherence for at least thirty (30) days.
- (b) Phase two (2) by satisfactory adherence for at least thirty (30) days after regaining phase one (1) privileges.
- (c) Phase three (3) by satisfactory adherence for at least thirty (30) days after regaining phase two (2) privileges.
- (d) Phase four (4) by satisfactory adherence for at least thirty (30) days after regaining phase three (3) privileges.
- (e) This section shall not be used to circumvent the requirements of this administrative regulation. A [No] client shall not be advanced to a phase level pursuant to this section unless he has previously been at that phase level after having satisfied the requirements of this administrative regulation.

(7) If a NTP fails to comply with the requirements in Sections 6, 7, 8, 9, 10, 11, 12, 13 or 16 of this administrative regulation, the SNA may order the NTP to suspend all or part of the take-home privileges for a period of thirty (30) days. The SNA shall notify the NTP in writing, prior to any suspension, indicating the reasons for the suspension:

- (a) The NTP shall submit a plan of correction to the SNA within ten (10) days of receipt of the SNA notification.
- (b) If the NTP does not make the corrections in the time specified, except [but] has responded within the ten (10) day time period indicating circumstances which the SNA has approved, the SNA may extend the suspension for up to a second thirty (30) day period.
- (c) If the NTP does not make the necessary corrections or does not submit an acceptable plan of correction with the SNA within the time frame specified in paragraph (a) of this subsection, the SNA shall suspend the NTP's take-home program until the necessary corrections have been made.
- (d) If the NTP is determined by the SNA to not comply with Sections 6, 7, 8, 9, 11, 10, 11, 12, 13 or 16 of this administrative regulation and is serving clients who meet the requirements in Sections 10 and 11 of this administrative regulation, the SNA may restrict the NTP's take-home procedures to the provision of emer-



agency take-homes according to the requirements of Section 16 of this administrative regulation. This restriction shall be in effect on a client-by-client basis until the NTP has taken corrective actions that bring the program into compliance with Sections 6, 7, 8, 9, 10, 11, 12, 13 and 16 of this administrative regulation.

(8) Maintenance treatment shall be discontinued within two (2) continuous years after the treatment is begun unless, based upon the clinical judgement of the medical director or program physician and staff which shall be recorded in the client's record by the medical director or program physician, the client's status indicates that the treatment should be continued for a longer period of time because discontinuance from treatment would lead to a return to illicit opiate abuse or dependence.

(9) Client status relative to continued maintenance treatment shall be reevaluated at least annually after two (2) continuous years of maintenance treatment and documented in the client's record by the medical director or program physician or maintenance treatment shall be terminated.

(10) Documentation of the justification for continued maintenance treatment required by this administrative regulation shall indicate the client's progress, or lack thereof, and future expectations as required by this administrative regulation.

(11) Each NTP shall submit a specific plan for a client's scheduled termination of maintenance treatment indicating a period of maintenance before the scheduled termination.

(12) The termination plan shall include dosage schedules, information on counseling, and any other patient support which will be provided during withdrawal.

(13) Scheduled withdrawal shall be under the immediate direction of the medical director or program physician and shall be individualized.

(14) A client may voluntarily terminate participation in a NTP even though termination may be against the advice of the NTP.

(15) If the medical director or program physician determines that the client's continued participation in the program creates a physically threatening situation for the staff or other clients, the client's participation may be terminated immediately.

(16) A client's participation in a NTP may be involuntarily terminated for cause.

(17) If a NTP utilizes disciplinary proceedings which include involuntary termination for cause, the program shall include in its protocol reasons and procedures for involuntarily terminating a client's participation in the program. The procedures shall provide for:

- (a) Explanation to the client of when participation may be terminated for cause;
- (b) Client notification of termination;
- (c) Client's right to hearing; and
- (d) Client's right to representation.

(18) If the NTP elects not to terminate for cause, the protocol shall state that clients shall not be involuntarily terminated for cause except as provided in subsection (15) of this section.

(19) Except as noted in subsection (15) of this section, either voluntary or involuntary termination shall take place over a period of time not less than fifteen (15) days, unless:

- (a) The medical director or program physician deems it clinically necessary to terminate participation sooner and documents why in the client's record; or
- (b) The client requests in writing a shorter termination period.

Section 17. Client Rights. ~~[In addition to the client rights cited in 908 KAR 4:200, Section 4.]~~ The following shall apply:

(1) Clients shall have the right to voluntary detoxification from the NTP.

(2) The client rights shall be posted in conspicuous places in the facility.

(3) The client rights shall be signed by the individual client attesting the client rights have been explained in such a manner that they are understood. This signed copy shall be maintained in the client's permanent medical record.

(4) Decisions regarding a client's treatment by staff may be subject to appeal by the client.

(5) Each NTP shall develop an appeal procedure that shall be approved by the SNA and shall include the following:

(a) Each appeal procedure shall contain a detailed description of the NTP's pretermination fair hearing procedure. The appeal procedure shall provide that a client has a right to a pretermination fair hearing if involuntarily terminated ~~[in all cases of involuntary termination]~~ from the program for cause if [where] continued participation in the program does not create a physically threatening situation for staff or other clients. The procedure shall require:

1. Identification of reasons for termination, as stated in the program rules, which may include:

- a. Polydrug abuse;
- b. Diversion of methadone;
- c. Violence or threat of violence to program staff or other clients in the program; or
- d. Multiple registration.

2. Written notification to the client of pending termination, containing:

- a. Reasons for termination; and
- b. Explanation of right to pretermination fair hearing, which shall explain to the client that rights shall be exercised within forty-eight (48) hours of written notice.

3. Provision for continuance of client's treatment status pending decision upon hearing;

4. Explanation of the client's rights during the hearing to:

- a. Be represented at the hearing by a person or attorney of their choice;
- b. Call witnesses on their behalf, who need not be under oath; and
- c. Examine witnesses presented by the NTP.

5. Release of medical information in the client's file to the client or the client's representative at least forty-eight (48) hours prior to the hearing;

a. Medical information requests by the client shall be in the form of a signed consent to release of information.

b. Medical information to be released to the client or client's representative shall be provided by the physician in charge of the client.

(b) The appeal procedure shall state whether the client is entitled to a hearing before a panel or before a single hearing officer. If the procedure states that the client is entitled to a hearing before a panel, a single hearing officer may not be substituted for the panel without the consent of the client. ~~If [in the case of]~~ a hearing before a panel, a majority vote of the panel shall be necessary to terminate a person from the NTP.

(c) The NTP shall select the hearing officer or panel from impartial persons not directly involved with the client's care.

(d) A hearing shall be scheduled within ten (10) ~~[seven (7)]~~ working days from the time the client requests a hearing.

(e) Unless the program procedures require a higher standard of proof, a client's participation in a program shall be terminated for cause only after the hearing officer or panel finds by a preponderance of the evidence presented that the reason stated in the notice justifies termination.

(f) The hearing officer or panel shall render a decision not later than the fifth ~~[first]~~ working day following the hearing. The NTP shall keep a permanent record of the proceeding. The permanent record of the proceedings may be a tape recording. The decision shall be made in writing and shall be based solely on the evidence presented at the hearing. The decision shall include a summary of the proceedings and the formal findings and conclusions of the hearing officer or panel.

1. A copy of the hearing decision shall be provided to the client.

2. Copies of all written materials, including all evidence introduced at the hearing, shall be retained for one (1) year.

(g) A client may appeal an adverse action of a hearing officer or panel by the following:

1. The client may appeal the decision by filing an appeal with the Office of the Secretary, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 within thirty (30) working days of the decision.

2. The hearing shall be conducted in accordance with the requirements of KRS Chapter 13B.

(6) All client appeals shall be maintained at the NTP for review by the SNA for two (2) years.



Section 18. Protocol for the Change of a NTP Location and the Protocol for Establishment of a Medication Station. The protocol shall be current, detailed, specific, and complete to permit evaluation by the SNA and to provide a basis for compliance inspections or surveys.

(1) If a NTP voluntarily decides to change its location or establish a medication station, the program shall notify, in writing, the DEA, CSAT [FDA], the SNA and the Division of Licensing and Regulation within the cabinet within ninety (90) days of the proposed relocation. The written request to relocate shall include the following information:

- (a) The reason for the relocation;
- (b) The relocation site;
- (c) The proposed date of the relocation;
- (d) Indicate any program changes that may occur with the relocation; and
- (e) If the NTP is within ninety (90) miles of the original site, the NTP shall provide the following:
  - 1. Any dosing procedural changes; and
  - 2. Any drug distribution problems which may occur due to the relocation.

(f) A medication station may be opened no closer than forty-five (45) miles and no further than ninety (90) miles to the main NTP.

- 1. The medication station shall obtain its supply of approved controlled substance from the stocks of the main NTP.
- 2. The medication station shall provide the following services:
  - a. Dosing; and
  - b. Urine screen collection.
- 3. The program sponsor shall develop a system to prevent clients from dosing at the main NTP and the medication station.
- 4. Any services provided at the medication station other than those listed above shall have prior approval by the CSAT [FDA] and SNA.

(2) The CSAT [FDA], the DEA, and the SNA shall agree that the NTP may establish a medication station or relocate to the proposed relocation site. Written approval shall be forwarded to the NTP.

(3) If a NTP voluntarily decides to close its operation, it shall notify the SNA, the DEA, CSAT [FDA] and the Division of Licensing and Regulation within ninety (90) days before the planned closure of the program.

Section 19. Monitoring of NTPs. (1) The SNA shall monitor NTPs to assure the health and safety of program clients and the protection of the community at large. Monitoring visits shall be conducted annually, or more frequently if indicated. The SNA may:

- (a) Discontinue all take-home doses of any approved controlled substance used in any NTP; or
- (b) Discontinue the utilization of any drug approved for use in narcotic treatment programs.

(2) Focused, unannounced monitoring visits may be conducted more frequently and may occur in conjunction with the CSAT [FDA] and the DEA.

(3) Monitoring shall include:

- (a) Inspection of the NTP licensing status;
- (b) Inspection of the status of all applicable staff licenses and certificates;
- (c) Inspection of the status of the NTP's CSAT [FDA], DEA, and state licenses;
- (d) Inspection of the NTP's security which shall include:
  - 1. Building security, perimeter and internal; and
  - 2. Security of staff procedures in receipt of narcotic drug, storage of narcotic drug, and handling of the drug in preparation and dosing functions;

(e) Inspection of the records maintenance, the inventory control procedures, and the internal inventory reconciliation procedures;

(f) Inspection of the procedures the program has in place to reduce the likelihood of drug diversion by program clients and staff; and

(g) A random sample of doses prepared for administration may be pulled for quantitative analysis and the SNA shall submit to the program sponsor a receipt for any doses taken for analysis.

(4) Client records shall be reviewed for the following:

(a) Client signed consent to treatment with a controlled substance before the first dose was administered;

(b) Conformity with 42 C.F.R. Part 8 [24—C.F.R. 294.505(d)(3)(i)] requirements for minimum medical evaluations;

(c) Conformity with 42 C.F.R. Part 8 [24—C.F.R. 294.505(d)(2)(ii)], Sections 6(7) and 11(1)(e), (2)(c), (3)(e), (4)(d) of this administrative regulation for urine drug screening requirements;

(d) Conformity with client record that when the urine drug screen is positive for use of unapproved drugs, or is negative for the approved controlled substance, the client is counseled and suitable therapeutic action is taken by the treatment team, and the client's take-home doses have been discontinued for thirty (30) days. Except [However], the urine drug screen shall not be used as the sole or primary reason for dismissing the client from the NTP; and

(e) Treatment plans have been developed and have been signed by the medical director or program physician in accordance with this administrative regulation;

(f) All physician orders for medications, doses, and dose changes and other treatments have been signed by the medical director or program physician within forty-eight (48) hours of the order's receipt;

(g) No medications are administered without the physician's orders;

(h) The SNA shall monitor for all other CSAT [FDA], DEA, or SNA administrative regulations; and

(i) Records shall be reviewed for compliance with all treatment phases and waiver requests and approvals.

Section 20. Penalties. Penalties may be issued by the SNA to NTPs that have violated CSAT [FDA] and DEA requirements, and this administrative regulation as follows:

(1) If [When] a monitoring visit reveals regulatory violations, the SNA shall, within ten (10) working days issue a written report, which also shall be submitted to the CSAT [FDA] and DEA, with a time frame of thirty (30) days for the NTP to submit a plan of corrective action.

(2) If a plan of corrective action has been submitted within the thirty (30) days and is acceptable, the SNA shall notify the NTP in writing.

(3) A follow-up visit to verify that corrective action has been made may be performed by the SNA.

(4) If the NTP has not filed a plan of corrective action within thirty (30) days after receipt of the report, the NTP shall be notified that its license shall be suspended for a period not to exceed six (6) months or revoked.

(5) Upon notification of suspension or revocation, the NTP may appeal the suspension or revocation in accordance with Section 21 of this administrative regulation.

(6) The SNA shall immediately suspend or revoke any narcotic treatment license if there is an emergency [in cases of emergencies] affecting the health and safety of the client population or the community as a whole.

(7) The grounds which justify the immediate suspension or revocation of a license shall be as follows:

(a) Take-home doses that fall outside this administrative regulation without specific CSAT [FDA], DEA, or SNA approval prior to issuance of the take-home dose;

(b) The allowable difference between the labeled dosage of the approved controlled substance and the actual dosage as determined by a drug assay shall be the United States Pharmacopeia error rate;

(c) More than five (5) percent of the medical and dosing records reviewed are out of compliance with the administrative regulations;

(d) Discrepancies in the inventory reconciliation greater than five (5) percent;

(e) Continued dosing of clients prior to completion of the intake procedures, including physical exam, except under SNA approved circumstances;

(f) Evidence in the client's record that the physician is not in control of the client's treatment;

(g) Consistent dosing of clients before the consent to treatment with controlled substances has been signed by the client;

(h) Consistent failure to conduct the required urine drug screening procedures on all drugs listed in Section 6(7) of this administrative regulation;

(i) Failure to comply with Section 8(5) of this administrative regulation; and

(j) Revocation of licensure ~~pursuant to 908 KAR 1:150 through 1:260~~.

(8) The SNA shall notify the CSAT ~~FDA~~ monitor, DEA, and the Department for Health Services Office of Drug Control at the time revocation or suspension is taken in accordance with subsection (4) of this section.

(9) Except in cases of emergencies affecting the health and safety of the client population or the community as a whole, an appeal shall stay any decision to suspend or revoke a license to operate pending final decision of the secretary.

Section 21. Appeals. If the SNA takes action to deny, suspend, or revoke a NTP license, the SNA shall notify the NTP in writing stating the reasons for the adverse actions and the NTP's right to appeal.

(1) If the NTP believes an action by the SNA is unfair, without reason, or unwarranted, the NTP may appeal the action in writing to the Secretary, Cabinet for Health Services, Fourth (4th) Floor, 275 East Main Street, Frankfort, Kentucky 40621, within fifteen (15) days after receipt of notice of action from the SNA.

(2) Upon receipt of the appeal, the secretary, or his designee, shall notify the NTP in writing within fifteen (15) days of the time and place of the hearing. The secretary, or his designee, shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.

(3) The hearing officer shall have authority to issue subpoenas to compel the attendance of witnesses and the production of documents to be used as evidence in hearings held pursuant to this section.

(4) Based upon the record and upon the information obtained at the hearing, the hearing officer shall affirm or overturn the initial decision of the negative action. The decision of the hearing officer shall be final. The NTP shall be notified in writing of the decision of the hearing officer.

(5) If a NTP, whose license has been suspended or revoked pursuant to Section 20(6) and (7) of this administrative regulation, requests a hearing, the cabinet shall conduct the hearing within ~~ten~~ ten (10) ~~five (5)~~ working days of receipt of the request from the NTP. The hearing may be continued at the request of the NTP.

(a) The sole issue of the hearing shall be whether one (1) or more grounds for suspension or revocation create an immediate danger to the client population or the community as a whole.

(b) The cabinet shall render a decision within five (5) working days of the hearing. If a decision is not rendered within five (5) working days of the hearing, the NTP shall have its license returned and be allowed to operate pending action on other regulatory violations, if any.

(c) If the hearing officer decides within five (5) working days of the close of the hearing that one (1) or more of the grounds for suspension or revocation create an immediate danger to the client population or the community as a whole, the license of the NTP shall be suspended pending action of the cabinet to accept the plan of correction or revoke the license.

(6) If suspension or revocation of the license is upheld, the secretary's, or his designee's, notification shall specify the date by which the NTP shall close.

(7) A NTP that continues to operate after the closing date established by the secretary shall be subject to legal action by the cabinet as provided by law.

Section 22. ~~Compliance for Currently Operating NTPs. NTPs currently operating at the time this administrative regulation becomes effective shall have ninety (90) days to come into compliance with this administrative regulation.~~

Section 23. ~~Material Incorporated by Reference.~~ (1) The following material is hereby incorporate by reference:

(a) Consent to Treatment with an Approved Narcotic Drug form FDA 2635 (7/93);

(b) Report of Theft or Loss of Controlled Substances form DEA 1305.12 (12/85); and

(c) US Official Order Forms-Schedules I & II DEA form 222 (10/92) are hereby incorporated by reference.

(2) ~~This [Copies of the incorporated]~~ material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, 100 Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601, 8 a.m. through 4:30 p.m., Monday through Friday.

MARGARET PENNINGTON, Commissioner

MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: October 14, 2003

FILED WITH LRC: October 21, 2003 at 4 p.m.

CONTACT PERSON: Kathy Burke (564-4860)

# ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

## ENVIRONMENTAL AND PUBLIC PROTECTION CABINET Department for Environmental Protection Division of Waste Management (Amended After Comments)

### 401 KAR 47:030. Environmental performance standards.

RELATES TO: KRS 224.01-010, 224.10-100, 224.10-105, 224.10-110, 224.40-100 to 224.40-650, 224.43-010 to 224.43-505, 224.70-100, 224.70-110, 224.99-010 to 224.99-030 [224.04, 224.10, 224.40, 224.43, 224.46, 224.50, 224.70, 224.99.] 50 C.F.R. Part 424

STATUTORY AUTHORITY: KRS 224.10-100, 224.10-105, 224.40-100, 224.40-305, 224.43-340, 224.43-350

NECESSITY, FUNCTION, AND CONFORMITY: [KRS Chapter 224 requires the cabinet to adopt rules and administrative regulations for the treatment, storage, recycling and disposal of solid wastes. KRS 224.40-305 requires that persons engaging in the treatment, storage, recycling and disposal of solid waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080.] This administrative regulation sets forth the minimum environmental standards with which all solid waste sites or facilities shall comply.

Section 1. Purpose, Scope and Applicability. The standards in this administrative regulation are for use under the waste management provisions of KRS Chapter 224 in determining which solid waste sites or facilities pose a reasonable probability of adverse effects on human health or the environment. Solid waste sites or facilities failing to satisfy the requirements of this administrative regulation shall be considered open dumps which are prohibited by KRS 224.40-100. No owner or operator shall cause, suffer, or allow a solid waste site or facility or any unit of a solid waste site or facility to violate any provision of this administrative regulation.

Section 2. Flood Plains. No solid waste site or facility shall restrict the flow of the 100 year flood, reduce the temporary water storage capacity of the flood plain, or be placed in a manner likely to result in washout of waste, so as to pose a hazard to human health, wildlife, or land or water resources.

Section 3. Endangered Species. No solid waste site or facility shall:

- (1) Cause or contribute to the taking of any endangered or threatened species or candidate species of the Endangered Species Act of 1973 as amended through January 1984 and 50 C.F.R. Part 424 as of October 1984; or
- (2) Result in the destruction or adverse modification of the critical habitat of endangered or threatened species or candidate species as identified in the Endangered Species Act of 1973 as amended through January 1984 and 50 C.F.R. Part 424 as of October 1984.

Section 4. Surface Waters. No solid waste site or facility shall:

- (1) Cause a discharge of pollutants into waters of the Commonwealth, including wetlands, that violates any requirements of KRS Chapter 224, including but not limited to the Kentucky Pollutant Discharge Elimination System;
- (2) Cause a discharge of dredged material or fill material to waters of the Commonwealth that is in violation of the requirements under Section 404 of the Clean Water Act as of February 4, 1987; or
- (3) Cause the release of nonpoint source pollution to waters of the Commonwealth, including wetlands, that violates any requirements of the Kentucky Nonpoint Source Pollution Program.

Section 5. Groundwater. No solid waste site or facility shall contaminate an underground drinking water source beyond the point of compliance in excess of the maximum contaminant levels [and the action levels for lead and copper] contained in Section 6 of this administrative regulation [401 KAR Chapter 8] [Section 6 of this administrative regulation].

**Section 6. Maximum Groundwater Contaminant Levels.** The maximum contaminant levels of this section are for use in determining whether solid waste site or facility activities comply with the groundwater criteria of Section 5 of this administrative regulation. Only analytical methods for these contaminants that are approved by the cabinet shall be used. No solid waste site or facility shall contaminate an underground drinking water source beyond the maximum contaminant levels established in this section.

**(1) Maximum contaminant levels for inorganic chemicals.** No solid waste site or facility shall contaminate an underground drinking water source beyond the following maximum contaminant levels:

Contaminant	Maximum Level <sup>1</sup> (milligrams per liter)
Arsenic	0.05 mg/l
Barium	2.0 mg/l
Cadmium	0.005 mg/l
Chromium	0.1 mg/l
Lead	0.05 mg/l
Mercury	0.002 mg/l
Nitrate (as N)	10.0 mg/l
Selenium	0.05 mg/l
Silver	0.05 mg/l
Flouride	4.0 mg/L

<sup>1</sup>Metal criteria are total recoverable metals to be measured in an unfiltered sample.

**(2) Maximum contaminant levels for organic chemicals.** The following are the maximum contaminant levels for organic chemicals other than volatile synthetic organic chemicals:

(a) Chlorinated hydrocarbons:	Maximum Level
Endrin (1,2,3,4,10,10-Hexachloro-6,7-epoxy -1,4,4a,5,6,7,8,8a-octahydro-1,4-endo-endo-5,8-dimethano-naphthalene)	0.002 mg/l
Lindane (1,2,3,4,5,6-Hexachlorocyclohexane, gamma isomer)	0.0002 mg/l
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxy-phenyl)ethane)	0.04 mg/l
Toxaphene (C <sub>10</sub> H <sub>10</sub> C <sub>18</sub> -Technical chlorinated camphene, 67 to 69 percent chlorine)	0.003 mg/l
(b) Chlorophenoxys:	
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.07 mg/l
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.05 mg/l

**(3) Maximum contaminant levels for radioactivity.** The following are the maximum contaminant levels for radionuclides:

Radionuclides	Maximum Level
Gross alpha particles	15 picocuries per liter
Radium	5 picocuries per liter
Gross beta particles	50 picocuries per liter
Strontium 90	8 picocuries per liter
Tritium	20,000 picocuries per liter
Iodine 131	3 picocuries per liter

(4) Maximum contaminant levels for volatile synthetic organic chemicals. The following are the maximum contaminant levels for volatile synthetic organic chemicals:

Chemicals	Maximum Level (milligrams per liter)
Benzene	0.005
Carbon tetrachloride	0.005
1,2-Dichloroethane	0.005
Trichloroethylene	0.005
para-Dichlorobenzene	0.075
1,1-Dichloroethylene	0.007
1,1,1-Trichloroethane	0.2
Vinyl chloride	0.002

(5) Maximum microbiological contaminant levels. The maximum contaminant level for coliform bacteria from any one (1) well shall be:

(a) Using the membrane filter technique:

1. Four (4) coliform bacteria per 100 milliliters if one (1) sample is taken; or

2. Four (4) coliform bacteria per 100 milliliters in more than one (1) sample of all the samples analyzed in one (1) month; or

(b) Using the five (5) tube most probable number procedure (the fermentation tube method) in accordance with the analytical procedures approved by the cabinet, and using a standard sample, each portion being one-fifth (1/5) of the sample:

1. If the standard portion is ten (10) milliliters, coliform in any five (5) consecutive samples from a well shall not be present in three (3) or more of the twenty-five (25) portions; or

2. If the standard portion is 100 milliliters, coliform in any five (5) consecutive samples from a well shall not be present in five (5) portions in any of five (5) samples or in more than fifteen (15) of the twenty-five (25) portions.

[Section 6. Maximum Groundwater Contaminant Levels. The maximum contaminant levels of this section are for use in determining whether solid waste site or facility activities comply with the groundwater criteria of Section 5 of this administrative regulation. Only analytical methods for these contaminants that are approved by the cabinet shall be used. No solid waste site or facility shall contaminate an underground drinking water source beyond the maximum contaminant levels established in this section.]

(1) Maximum contaminant levels for inorganic chemicals. No solid waste site or facility shall contaminate an underground drinking water source beyond the maximum contaminant levels established herein.

(a) The following are the maximum levels of inorganic chemicals other than fluoride:

Contaminant	Maximum Level* (milligrams per liter)
Arsenic	0.05 mg/l
Barium	1.0 mg/l
Cadmium	0.01 mg/l
Chromium	0.05 mg/l
Lead	0.05 mg/l
Mercury	0.002 mg/l
Nitrate (as N)	10.0 mg/l
Selenium	0.01 mg/l
Silver	0.05 mg/l

\*Metal criteria are total recoverable metals to be measured in an unfiltered sample.

(b) The maximum contaminant levels for fluoride are:

Degrees Fahrenheit	Temperature* Degrees Celsius	Maximum Level
53.7 and below	12 and below	2.4 mg/l
53.8 to 58.3	12.1 to 14.6	2.2 mg/l
58.4 to 63.8	14.7 to 17.6	2.0 mg/l
63.9 to 70.6	17.7 to 21.4	1.8 mg/l
70.7 to 79.2	21.5 to 26.2	1.6 mg/l
79.3 to 90.5	26.3 to 32.5	1.4 mg/l

\*Annual average of the maximum daily air temperature.

(2) Maximum contaminant levels for organic chemicals. The following are the maximum contaminant levels for organic chemicals other than volatile synthetic organic chemicals:

(a) Chlorinated hydrocarbons:	Maximum Level
Endrin (1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo-endo-5,8-dimethano-naphthalene)	0.0002 mg/l
Lindane (1,2,3,4,5,6-Hexachlorocyclohexane, gamma isomer)	0.004 mg/l
Methoxychlor (1,1,1-Trichloro-2,2-bis-(p-methoxy-phenyl)ethane)	0.1 mg/l
Toxaphene (C <sub>10</sub> H <sub>10</sub> Cl <sub>12</sub> -Technical chlorinated camphene, 67 to 69 percent chlorine)	0.005 mg/l
(b) Chlorophenoxys:	
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1 mg/l
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01 mg/l

(3) Maximum contaminant levels for radioactivity. The following are the maximum contaminant levels for radionuclides:

Radionuclides	Maximum Level
Gross alpha particles	15 picocuries per liter
Radium	5 picocuries per liter
Gross beta particles	50 picocuries per liter
Strontium-90	8 picocuries per liter
Tritium	20,000 picocuries per liter
Iodine-131	3 picocuries per liter

(4) Maximum contaminant levels for volatile synthetic organic chemicals. The following are the maximum contaminant levels for volatile synthetic organic chemicals:

Chemicals	Maximum Level (milligrams per liter)
Benzene	0.005
Carbon tetrachloride	0.005
1,2-Dichloroethane	0.005
Trichloroethylene	0.005
para-Dichlorobenzene	0.075
1,1-Dichloroethylene	0.007
1,1,1-Trichloroethane	0.2
Vinyl chloride	0.002

(5) Maximum microbiological contaminant levels. The maximum contaminant level for coliform bacteria from any one (1) well shall be:

(a) Using the membrane filter technique:

1. Four (4) coliform bacteria per 100 milliliters if one (1) sample is taken; or

2. Four (4) coliform bacteria per 100 milliliters in more than one (1) sample of all the samples analyzed in one (1) month; or

(b) Using the five (5) tube most probable number procedure (the fermentation tube method) in accordance with the analytical procedures approved by the cabinet, and using a standard sample, each portion being one-fifth (1/5) of the sample:

1. If the standard portion is ten (10) milliliters, coliform in any five (5) consecutive samples from a well shall not be present in three (3) or more of the twenty-five (25) portions; or

2. If the standard portion is 100 milliliters, coliform in any five (5) consecutive samples from a well shall not be present in five (5) portions in any of five (5) samples or in more than fifteen (15) of the twenty-five (25) portions.]

Section 7. [6.] [7.] Application to Land Use for the Production of Food Chain Crops. No solid waste site or facility shall exist or occur which applies solid waste within three (3) feet of the surface of land used for the production of food chain crops unless in compliance with all the requirements of subsection (1) or (2) of this section:

(1)(a) The pH of the solid waste and soil mixture is six and five-tenths (6.5) or greater at the time of each solid waste application,

except for solid waste containing cadmium at concentrations of two (2) mg/kg (dry weight) or less;

(b) The annual application of cadmium from solid waste does not exceed 0.44 pounds per acre on land used for production of tobacco or food chain crops. The annual cadmium application rate does not exceed 0.44 pounds per acre; and

(c) The maximum cumulative application of cadmium from the waste does not exceed the levels in Table 1 of this paragraph.

Table 1 Maximum cumulative application		
Soil Cation Exchange Capacity (meq/100g)	Background Soil pH	Pounds/per/Acre
<5	≥6.5	4.46
5-15	≥6.5	8.92
>15	≥6.5	17.84
>15	<6.5*	4.46

\*For soils with a background pH of less than six and five-tenths (6.5), the maximum cumulative cadmium applications rate for soils with a background pH equal to or greater than six and five-tenths (6.5) may be used if the pH of the sludge-soil mixture is adjusted to and maintained at six and five-tenths (6.5) or greater whenever food chain crops are grown.

(2) If animal feed is the only food chain crop produced, there is no limit to the cadmium application rate, as long as the pH of sludge and soil mixture is six and five-tenths (6.5) or greater at the time of sludge application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food chain crops are grown. A plan shall also be developed which demonstrates how the animal feed shall be distributed to preclude human ingestion, and the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses. Future property owners shall also be notified by a stipulation in the land record or property deed which states that the property received sludge at high cadmium application rates and that food chain crops, except for animal feed, shall not be grown due to possible health hazards.

Section 8. ~~[7.]~~ [8-] Polychlorinated Biphenyls. No solid waste site or facility shall exist or occur which places solid waste containing concentrations of polychlorinated biphenyls (PCBs) equal to or greater than one (1) mg/kg (dry weight) on the land. However, residual landfills may dispose of PCBs in accordance with their permit and contained landfills may dispose of solid wastes containing PCBs equal to forty-nine (49) mg/kg (dry weight) or less.

Section 9. ~~[8-]~~ [9-] Disease. (1) Disease vectors. No solid waste site or facility shall exist or occur unless the on-site population of disease vectors is prevented or controlled through the periodic application of cover material or other techniques as appropriate to protect human health and the environment.

(2) Sewage sludge and septic tank pumpings. No solid waste site or facility shall exist or occur which applies sewage sludge or septic tank pumpings within three (3) feet of the surface of the land unless a method to reduce pathogens has been utilized.

Section 10. ~~[9-]~~ [40-] Air. (1) No solid waste site or facility shall engage in open burning of solid waste or hazardous wastes. This requirement does not apply to infrequent burning of agricultural wastes in the field, silvicultural wastes for forest management purposes, land-clearing debris, diseased trees, debris from emergency cleanup operations, or ordinance [ordinance].

(2) No solid waste site or facility shall violate applicable air pollution requirements contained in KRS Chapter 224 or 401 KAR Chapters 50 through 63.

Section 11. ~~[10-]~~ [44-] Safety. (1) Explosive gases. No solid waste site or facility shall allow the concentration of explosive gases generated by the facility to exceed:

(a) Twenty-five (25) percent of the lower explosive limit for the gases in facility structures (excluding gas control or recovery system components); and

(b) The lower explosive limit for the gases at the facility property boundary.

(2) Fires. No solid waste site or facility shall pose a hazard to the safety of persons or property from fires. This may be accomplished through compliance with Sections 8 and 9 [and 40] of this administrative regulation, through the periodic application of cover material or other techniques as appropriate.

(3) Access. No solid waste site or facility shall allow uncontrolled public access, unauthorized vehicular traffic, or illegal dumping of wastes. This requirement to ensure protection of human health and the environment may be met by using artificial barriers, natural barriers, or other methods as appropriate.

Section 12. ~~[44-]~~ [42-] Public Nuisance. No solid waste site or facility shall result in a public nuisance because of blowing litter, debris, or other waste or material.

Section 13. ~~[42-]~~ [43-] Wetlands. No new or expanded solid waste site or facility shall be located in wetlands.

Section 14. ~~[43-]~~ [44-] Compliance. No solid waste site or facility shall violate any requirement of KRS Chapter 224.

LAJUANA S. WILCHER, Secretary

APPROVED BY AGENCY: January 14, 2004

FILED WITH LRC: January 14, 2004 at 1 p.m.

CONTACT PERSON: Julia Lightner, Environmental Technologist II, PPA Branch, 14 Reilly Road, Frankfort, Kentucky 40601, phone (502) 564-6716 ext. 342, fax (502) 564-3492.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Julia Lightner

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the minimum environmental standards with which all solid waste sites or facilities shall comply.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements of KRS 224.40-305.

(c) How this administrative regulations conforms to the content of the authorizing statutes: This regulation creates the standards allowed for the permitting of solid waste sites or facilities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The standards in this administrative regulation are for use in determining which solid waste sites or facilities pose a reasonable probability of adverse effects on human health or the environment.

(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 updates the environmental performance standards for solid waste facilities to be congruent with the standards in 401 KAR Chapter 8, Public Water Supply.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to meet the requirements of KRS 224.40-305, and to provide regulatory consistency.

(c) How the amendment conforms to the context of the authorizing statutes: This amends the standards for the environmental performance of solid waste sites or facilities.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will create consistent standards between 401 KAR Chapters 8 and 47.

(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 an estimated 150 landfills. County fiscal courts and other local governments own approximately 50 of these landfills.

(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: Solid waste sites or facilities will not be allowed to contaminate an underground drinking water source beyond the point of compliance in excess of the revised maximum contaminant levels contained in 401 KAR 47:030.

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

(a) Initially: No implementation cost.

(b) On a continuing basis: No implementation cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The General Fund will continue to be the source of funding for the implementation and enforcement of this 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: No increase in fees or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No tiering is applied. This administrative regulation applies to all solid waste sites and facilities.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part, or division of local government this administrative regulation will affect. County fiscal courts, along with any other city or county government that own or operate solid waste sites or facilities will be affected by this administrative regulation.

3. State, in detail, the aspect or service of local government to which this administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation. This administrative regulation relates to the environmental performance standards required for landfills, and all other solid waste sites or facilities owned or operated by the local governing bodies. The applicable state statute mandating the action taken by this regulation is KRS 224.40-305.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No change.

Expenditures (+/-): No change.

Other Explanation: No change.

#### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection  
Division of Waste Management  
(Amended After Comments)

#### 401 KAR 100:030. Remediation requirements.

RELATES TO: KRS 224.01-400, 224.01-405, 224.01-450 to 224.01-465, 224.01-510 to 224.01-532, 224.40-100

STATUTORY AUTHORITY: KRS 224.10-100(30), 224.40-100, 224.01-400, 224.01-405, 224.01-530, 224.01-532

NECESSITY, FUNCTION AND CONFORMITY: This administrative regulation governs remediation under KRS 224.01-400 and 224.01-405, 224.01-510 through 224.01-532, and 224.01-450 to 224.01-465.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise specifically indicated by context, terms in this administrative regulation shall have the meanings given in this section.

(1) "Ambient background" means the concentrations of naturally-occurring inorganic substances and ubiquitous anthropogenic inorganic substances in the environment that are representative of the region surrounding the site and not attributable to an identifiable release.

(2) "Applicant" means a person who has applied to participate in the Voluntary Environmental Remediation Program in accordance with KRS 224.01-514.

(3) "Application" means Application to Enter the Voluntary Environmental Remediation Program, DEP Form 6059 (October 22, 2003), including any additions, revisions, or modifications and any narrative and drawings.

(4) ~~["ARARs" means applicable or relevant and appropriate requirements including:~~

~~(a) Maximum contaminant levels;~~

~~(b) Water quality standards;~~

~~(c) Action levels;~~

~~(d) Guidance;~~

~~(e) Advisories; and~~

~~(f) A maximum allowable concentration of 50 mg/kg for lead in surface soils intended for unrestricted use.~~

(5) "Contaminant of concern" means a hazardous substance or petroleum that is sufficiently present in frequency and concentration in the environment to require further evaluation of human and ecological health effects.

(5) ~~[(6)]~~ "Industrial" means a type of property not used for residential purposes or for other purposes with a similar potential for human exposure.

~~[(7)] "Maximum contaminant levels" shall have the meaning set out in 401 KAR 8:010(1).]~~

(6) ~~[(8)]~~ "Notice of completion" means a letter from the cabinet to the person indicating that the person has satisfactorily completed the requirements of KRS 224.01-400(18) and 224.01-405(1) and Sections 6 through 9 of this administrative regulation.

(7) "Party" shall mean a person as defined [(9)] "Person" shall have the meaning in KRS 224.01-010(17) who is:

(a) Conducting remediation in accordance with KRS 224.01-400(18) or 224.01-405(1), who is seeking a notice of completion from the cabinet; or

(b) Conducting remediation in accordance with KRS 224.01-400(18) or 224.01-405(1), and seeking a no further remediation letter in accordance with KRS 224.01-450 to 224.01-465.

(8) ~~[(40)]~~ "Region 9 PRGs" means the U.S. EPA Region 9 Preliminary Remediation Goals, (October 1, 2002) used in accordance with the U.S. EPA Region 9 Preliminary Remediation Goals Table User's Guide/Technical Background Document (October 1, 2002).

(9) ~~[(44)]~~ "Residential" means a type of property used [as]:  
(a) As a residence or dwelling, including a house, apartment, or condominium; or

(b) For other purposes with a similar potential for human exposure [A facility regularly frequented by sensitive subpopulations such as children, the elderly, and chronically ill persons].

(10) ~~[(42)]~~ "Target risk" means an excess cancer risk of one in one million for carcinogenic endpoints and a hazard index of 1.0 for noncancer endpoints.

(11) ~~[(43)]~~ "Voluntary Environmental Remediation Program" (VERP) means the process for site remediation established in this administrative regulation and KRS 224.01-510 to 224.01-532.

Section 2. Applicability. This administrative regulation governs remediation pursuant to KRS 224.01-400(18)-(21), 224.01-405(1), 224.01-450 to 224.01-465, and 224.01-510 to 224.01-532.

Section 3. Eligibility (1) A notice of completion, a no further remediation letter, or a covenant not to sue shall be issued by the cabinet only for those sites at which remediation is conducted under cabinet oversight or is otherwise approved by the cabinet.

(2) Upon approval of a remediation done in accordance with KRS 224.01-400 or 224.01-405 and Sections 6 through 9 of this administrative regulation, the cabinet shall issue a notice of completion to the person.

(3) Upon approval of a remediation done in accordance with KRS 224.01-450 to 465 and Sections 6 through 9 of this administrative regulation, the cabinet shall issue a no further remediation letter to the eligible public entity.

(4) Eligible participants seeking a covenant not to sue from the cabinet shall apply to enter the Voluntary Environmental Remediation Program. Upon approval of a remediation done in accordance



with KRS 224.01-510 to 224.01-532 and Sections 5 through 9 of this administrative regulation, the cabinet shall issue a covenant not to sue to the applicant.

(5) A person conducting characterization and remediation, with or without cabinet oversight as provided by KRS 224.01-400(19), shall have all the options of KRS 224.01-400 and of this administrative regulation.

Section 4. Initial Property Screening. (1) KRS 224.01-530 establishes the Region 9 PRGs as screening values. Contamination on a property that does not exceed the residential value in the Region 9 PRGs and does not otherwise require action under KRS 224.01-400 or 224.01-405, does not rise to a level of concern under KRS 224.01-530.

(2) Contamination on a property which exceeds the residential value but does not exceed the industrial value in the Region 9 PRGs and does not otherwise require action under KRS 224.01-400 or 224.01-405, does not rise to a level of concern under KRS 224.01-530 if the property is restricted in use to industrial ~~[or commercial]~~ use by a deed instrument in the property's chain of title that industrial exposures have been assumed at the site and is recorded with the county clerk for the county in which the property exists ~~[an enforced restrictive covenant and a copy of the restrictive covenant is filed with the cabinet]~~.

(3) The cabinet shall not issue a covenant not to sue for sites described by Section 4(1) and (2) of this administrative regulation unless the owner of the property applies to the Voluntary Environmental Remediation Program and complies with Sections 5 through 9 of this administrative regulation ~~[including full characterization of any contamination regardless of the use of screening levels as described in Section 4(1) and (2) of this administrative regulation]~~.

(4) The cabinet may require further characterization and remediation of any release ~~[of a property]~~ pursuant to and in compliance with all applicable statutes and regulations regardless of the application of Section 4(1) and (2) of this administrative regulation.

Section 5. Application. In order to enter into the Voluntary Environmental Remediation Program an applicant shall submit to the cabinet:

- (1) A completed application;
- (2) The tear sheet for the public notice required by KRS 224.01-514(3)(d);
- (3) A site characterization plan prepared in accordance with Section 6 of this administrative regulation; and
- (4) A nonrefundable application fee, if required by KRS 224.01-514(3).

Section 6. Site Characterization Plan. The party [person] or applicant shall submit to the cabinet a site characterization plan that complies with KRS 224.01-400(18) to [and] (21) or 224.01-405(1) and Section 7(2) of this administrative regulation, and shall include:

(1) To the extent known or reasonably obtained, the location and ownership of the property and site; the history of the use of the property and site, surrounding land use and ownership; information regarding the circumstances surrounding known or suspected releases at the property and site, including the types of hazardous substances or petroleum released, approximate volumes or amounts of releases, and actions taken in response to known or suspected releases to date;

(2) The site conditions and physical setting including soils, groundwater, geology, and other pertinent features; a 7.5 minute USGS topographic quadrangle map or the appropriate part of such a map indicating the location of the property, a 7.5 minute USGS geological quadrangle map or the appropriate part of such a map indicating the location of the property; and a base map, at an appropriate scale, accuracy, and detail depicting property lines, surrounding land ownership and uses, significant structures and infrastructure; and significant environmental or geological features;

(3) A soil sampling plan to identify and ~~[fully]~~ characterize the horizontal and vertical extent of contamination and the variation in types and concentrations of hazardous substances and petroleum

sufficient to support selection of remediation options for the site;

(4) A plan to determine ~~[determination, with supporting information, of]~~ whether a groundwater assessment is necessary~~], conducted in accordance with the Kentucky Guidance for Groundwater Assessment Screening, or other method selected by the person or applicant and approved by the cabinet]~~;

(5) A plan to determine ~~[determination, with supporting information, of]~~ whether air quality, surface water and its associated sediments, or terrestrial or aquatic habitat have been affected by a release~~], and the extent of the effect of the release on these media]~~;

(6) A plan to determine ~~[determination of]~~ whether an ecological risk assessment is necessary ~~[in accordance with "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments (1997)", and "Guidelines for Ecological Risk Assessment (1998)"]~~; and

(7) A statement specifying that sample collection and analysis requirements, quality assurance, and quality control will be met in accordance with "Test Methods for Evaluating Solid Wastes: Physical Chemical Methods (EPA Publication No. SW-846) Third Edition".

(8) A proposed schedule for implementation of the characterization plan and submittal of a site characterization report.

Section 7. Site Characterization and Site Characterization Report. (1) The party [person] or applicant shall conduct a site characterization that complies with the site characterization plan, as required in Section 6 of this administrative regulation; and

(2) The party [person] or applicant shall submit a site characterization report that includes:

- (a) A list of the contaminants of concern at the site;
  1. The party [person] or applicant shall identify contaminants of concern at the site using the Region 9 PRGs.
  2. In identifying contaminants of concern the party [person] or applicant shall consider the following:
    - a. The frequency of detection of the contaminants;
    - b. The effects on human health due to the interaction between contaminants, including additivity. Additivity of contaminants of concern shall be evaluated using the screening index described in the "U.S. EPA Region 9 Preliminary Remediation Goals Table User's Guide/Technical Background Document (October 1, 2002)";
    - c. Ambient background conditions, including ambient background based on generic statewide ambient background levels as presented in Table 2 of the Kentucky Guidance for Ambient Background Assessment, or site-specific ambient background conditions determined in accordance with the Kentucky Guidance for Ambient Background Assessment; and
    - d. Any other applicable requirements [ARARs].

3. A person conducting characterization and screening with or without cabinet oversight as provided by KRS 224.01-400(19), may use Region 9 PRGs to screen sites and identify contaminants of concern, as described in KRS 224.01-530(1). However, the cabinet shall not approve the adequacy ~~[certify the applicability]~~ of the Region 9 PRGs without review of site-specific conditions.

(b) A determination of the extent of the contamination in all media impacted by contaminants of concern including:

1. The horizontal and vertical extent of contamination in soils;
2. The results of the determination of whether a groundwater assessment is necessary, conducted in accordance with the "Kentucky Guidance for Groundwater Assessment Screening", or other method selected by the party or applicant and approved by the cabinet;
3. The results of the determination of whether air quality, surface water and its associated sediments, or terrestrial or aquatic habitat have been affected by a release, and the extent of the effect of the release on these media; and

(c) A determination by way of screening or risk assessment, as appropriate, of the human health and ecological risks posed by contamination at the site or resulting from the site;

1. Human health risk assessments shall comply with the "Risk Assessment Guidance for Superfund: Volume 1, Human Health Evaluation Manual, Part A, Part B, and Part C";
2. Ecological risk assessments shall be conducted in ac-



cordance with "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments (1997)", and "Guidelines for Ecological Risk Assessment (1998)".

Section 8. Corrective Action Plan. (1) The party [person] or applicant shall submit a corrective action plan to the cabinet that addresses contaminants of concern in impacted media, and unacceptable [identified] ecological risks. The corrective action plan shall contain a proposed schedule for implementation of the corrective action.

(2) A person conducting corrective action pursuant to KRS 224.01-400(19) may use the Region 9 PRGs in order to identify final remediation goals. However, the cabinet shall not approve the adequacy [certify the applicability] of the Region 9 PRGs as final remediation goals without review of site-specific conditions.

(3) The corrective action plan shall employ one (1) of the following options:

(a) No action necessary.

1. No action is necessary in accordance with KRS 224.01-400(18)(a) if the party [person] or applicant:

a. Demonstrates to the cabinet that the risk posed by contaminants of concern does not exceed target risk levels [at the point of exposure] for unrestricted land use and does not exceed ecological risk endpoints in accordance with "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments (1997)" and "Guidelines for Ecological Risk Assessment (1998)"; or

b. Demonstrates to the cabinet that organic contaminants of concern do not exceed target risk levels [at the point of exposure] for unrestricted land use and inorganic contaminants of concern do not exceed ambient background levels for the respective media. Contaminants of concern shall not exceed ecological risk endpoints in accordance with "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments (1997)" and "Guidelines for Ecological Risk Assessment (1998)".

2. The party's [person] or applicant's attempt to demonstrate that no action is necessary to protect human health, safety and the environment may include demonstrations by the party [person] or applicant that the remaining organic constituents in soil are naturally occurring or are not attributable to an identifiable release [releases on the property].

3. The party's [person] or applicant shall consider any applicable requirements [incorporate ARARs] when demonstrating no action is necessary.

4. Region 9 PRGs may be used as the final remediation goals for human health at sites:

a. That do not have multiple contaminants of concern that result in an additive risk above the target risk level. Additivity of contaminants of concern shall be evaluated using the screening index described in the "U.S. EPA Region 9 Preliminary Remediation Goals Table User's Guide/Technical Background Document (October 1, 2002)"; and

b. For which the assumptions used in developing the Region 9 PRGs are applicable.

(b) Management in place. KRS 224.01-400(18)(b) applies to sites where the party [person] or applicant will manage releases in place. The goal of management in place shall be to attain target risk levels at the point of exposure, and be protective of ecological health.

1. Management of the release shall include engineering and institutional controls amounting to containment of the release, and either elimination of exposure pathways, or reduction of exposure.

2. The party [person] or applicant shall consider current and proposed land use in selecting the remedy. Proposed land use shall not be in conflict [be consistent] with local zoning codes and other applicable ordinances.

3. The party [person] or applicant shall describe to the cabinet the method for maintenance of engineering and institutional controls, to include:

a. Annual (or other approved frequency) inspections of the engineering and institutional controls, as approved by the cabinet in the corrective action plan;

b. Annual (or other approved frequency) certification to the cabinet that the engineering and institutional controls remain protective of human health, safety and the environment; and

c. A deed instrument containing an enforceable restrictive covenant [if applicable] which is transferable and is binding on current and subsequent property and recorded with the county clerk for the county in which the property exists. A copy of the restrictive covenant shall be filed with the cabinet [owners].

4. In the event the target risk levels at the point of exposure will not be achieved by the proposed remedy, the party [person] or applicant shall demonstrate to the cabinet the protectiveness of the remedy using the criteria listed in clauses a through h of this subparagraph. The cabinet shall place emphasis on criteria listed in clauses a through d of this subparagraph when evaluating the remedy selected.

a. The overall protection of human health and the environment;

b. The compliance with any other applicable requirements [ARARs];

c. The long-term effectiveness and permanence of the remedial option;

d. The reduction of toxicity, mobility, or volume through the use of treatment;

e. The short-term effectiveness of the remedy;

f. The ability to implement the remedy;

g. The cost of the remedy; and

h. Community acceptance of the remedy.

5. If the proposed remedy will not achieve target risk levels at the point of exposure the party [person] or applicant shall provide a public notice of the remedy, including a summary of the contamination at the site, the remedial actions taken, and the residual risks associated with the site. The cabinet shall receive public comments on the proposed remedy for at least thirty (30) days following publication of the notice. For VERP participants, the public notice and comment period required by KRS 224.01-524 shall serve as the required public notice.

(c) Restoration. KRS 224.01-400(18)(c) applies to sites where the party [person] or applicant restores the environment through removal of the contaminants of concern to ambient background levels, target risk levels at the point of exposure, or levels derived from a site-specific risk assessment approved by the cabinet, that do not require engineering or institutional controls.

(d) Combination of options. The party [person] or applicant shall have the option to employ a combination of the remedial options described in this section.

(4) The cabinet shall review and approve or disapprove the corrective action plan pursuant to KRS 224.01-522 or 224.01-400 (22), as applicable.

Section 9. Corrective Action Completion Report. (1) The party [person] or applicant shall submit to the cabinet a corrective action completion report.

(2) The corrective action completion report shall include:

(a) Documentation that the corrective actions implemented comply with [KRS 224.01-400(18) to (21), 224.01-405(1), and 224.01-526(1) and] the corrective action plan approved by the cabinet;

(b) Documentation of the completion of all the activities specified in the corrective action plan required in Section 7 of this administrative regulation, including documentation of any modification from the approved corrective action plan, documentation of the weight, volume, and classification of any material removed as part of the corrective action, copies of signed manifests and any other pertinent waste disposal forms, sampling procedures used for waste profile determination and restoration conformation, results from any confirmatory sampling and copies of all laboratory analytical reports, and information regarding backfill material, where it was obtained, and any attendant analytical results;

(c) Documentation of all engineering and institutional controls implemented to contain the release, eliminate pathways of exposure, reduce exposure, or achieve a combination thereof; and

(d) A statement signed by the party [person] or applicant certifying that the document and all attachments were prepared under the party [person] or applicant's direction or supervision, and the information submitted is, to the best knowledge of the party [per-

son] or applicant, true, accurate, and complete.

**(3) The cabinet shall review and approve or disapprove the corrective action completion report pursuant to KRS 224.01-522 or 224.01-400(22), as applicable.**

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

(a) "Application to Enter Voluntary Environmental Remediation Program, DEP Form 6059 (October 22, 2003)";

(b) "U.S. EPA Region 9 Preliminary Remediation Goals, and the Region 9 PRGs Table User's Guide/Technical Background Document (October 1, 2002)";

(c) "Kentucky Guidance for Ambient Background Assessment (January 8, 2004) [~~(October 28, 2003)~~];

(d) "Kentucky Guidance for Groundwater Assessment Screening (January 15, 2004) [~~(October 23, 2003)~~];

(e) "Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments (1997)" Interim Final. U.S. EPA Environmental Response Team, Edison, NJ;

(f) "Guidelines for Ecological Risk Assessment (1998)" U.S. EPA Risk Assessment Forum, Washington, DC. EPA/630/R-95/002F; [and]

(g) "SW-846 Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, Third Edition, Integrated Version (June 1997)";

**(h) "Risk Assessment Guidance for Superfund: Volume 1, Human Health Evaluation Manual, Part A, Interim Final Version (December 1989);**

**(i) "Risk Assessment Guidance for Superfund: Volume 1, Human Health Evaluation Manual, Part B, Development of Risk-based Preliminary Remediation Goals, Interim Version (December 1991); and**

**(j) "Risk Assessment Guidance for Superfund: Volume 1, Human Health Evaluation Manual, Part C, Risk Evaluation of Remedial Alternatives, Interim Version (October 1991).**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Waste Management, 14 Reilly Rd, Frankfort, Kentucky 40601, (502) 564-6716, Monday through Friday, 8 a.m. to 4:30 p.m., Eastern Time, excluding state holidays.

LAJUANA S. WILCHER, Secretary

APPROVED BY AGENCY: January 14, 2004

FILED WITH LRC: January 15, 2004 at noon

CONTACT PERSON: Michael S. Mullins, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, phone (502) 564-6716, fax (502) 564-3492, email Michael.Mullins@mail.state.ky.us

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael S. Mullins

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation creates a framework that implements the requirements to be followed in conducting environmental remediation. The standards for remediation are promulgated along with protocols for cleanups conducted under KRS 224.01-400 and 224.01-405 and the Kentucky Voluntary Environmental Remediation Act.

(b) The necessity of this administrative regulation: This regulation is required to meet the requirements of KRS 224.01-530.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation sets standards for remediation required by KRS 224.01-530(2) - (3).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will provide guidance to affected entities required to conduct cleanups pursuant to KRS 224.01-400 and 224.01-405 and voluntary participants in the Kentucky Voluntary Environmental Remediation Program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How this amendment will change the 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: This administrative regulation affects 2 types of entities. The first type of entity is any person seeking to voluntarily clean up a contaminated site in accordance with the Voluntary Environmental Remediation Act, KRS 224.01-510 to 224.01-532. Since the effective date of the program, June 21, 2001, there have been 2 applications for the voluntary environmental remediation program. The second type of entity is those parties responsible for remediating the effects of a release in accordance with KRS 224.01-400 and 224.01-405. The cabinet estimates that there are presently 1000 sites in the state superfund program that are actively being remediated by the responsible parties ("RP-lead cleanups"). Approximately 75 new RP-lead sites are added to the cabinet's oversight workload each year.

(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: Due to the voluntary nature of the Kentucky Voluntary Environmental Remediation Program, this administrative regulation will only impact those who choose to enter the program. Entities required to conduct remediation under KRS 224.01-400 or 224.01-405 will be provided with a set of guidelines to determine when cleanups have been completed to cabinet satisfaction. This administrative regulation will, however, also allow for maximum flexibility allowed under statute for remediation at these sites.

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

(a) Initially: There no added or reduced costs to the administrative body.

(b) On a continuing basis: There are no added or reduced costs to the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Implementation of the voluntary environmental remediation program is funded via an application fee, plus recovery of any cabinet oversight costs not covered by the application fee, to be paid by the program participants in accordance with KRS 224.01-514(c) and 224.01-518(c). Cabinet oversight of cleanups conducted under KRS 224.01-400 and 224.01-405 are paid for via the Hazardous Waste Management Fund established under KRS 224.46-580. Also, the cabinet is authorized to recover all oversight costs from responsible parties as mandated by KRS 224.46-580(5) and 224.01-400(15).

(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 is necessary.

(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? Yes. Contaminated sites are evaluated based on proposed land use. Also, entities seeking to remediate a contaminated site are given the options provided under KRS 224.01-400(18). Those options are to: demonstrate no action is required; to manage the effects of the release; to restore the environment, or to employ a combination of these options. The associated guidance incorporated by reference employs tiered approaches to assessing impacts to groundwater at a site, comparison to ambient background conditions and ecological assessment.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of local government, including any service provided by that local gov-

ernment? Yes

2. State what unit, part of division of local government this administrative regulation will affect. This administrative regulation may affect planning and development agencies of local government that own or seek to own a property in need of environmental remediation.

3. State the aspect or service of local government to which this administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation. This administrative regulation relates to a property that is owned by a local government that needs remediation or that the local government wishes to purchase that needs remediation. KRS 224.01-510 - 224.01-532 authorizes the action taken by the administrative regulation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenue unless the local government is able to sell properties that were difficult to sell in the past due to contamination on the property.

Expenditures (+/-): There is no known effect on the current expenditures unless the local government decides to cleanup a contaminated property, in which case the cleanup should be done more efficiently and cost effectively.

Other Explanation: If an agency of local government elects to pursue a covenant not to sue for a remediated property, there would be some benefit in the form of relief from liability that could affect the local government's ability to sell or develop the property.

**ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**  
Department for Natural Resources  
Division of Mine and Minerals  
(Amended After Comments)

**805 KAR 1:190. Gathering lines.**

RELATES TO: KRS 353.500(2), 353.5901(1), 40 C.F.R. Part 112, 49 C.F.R. Parts 191, 192, 194, 195

STATUTORY AUTHORITY: KRS 353.500(2), 353.540

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.500(2) requires the department to promulgate administrative regulations pertaining to gathering lines, in order to minimize their potential effects on the citizens and the environment of the Commonwealth. This administrative regulation sets forth provisions for the installation, reclamation of disturbed areas and safety requirements of gathering lines as they pertain to oil and gas production operations.

Section 1. Definitions. The definitions set out in KRS 353.510 and the following additional definitions shall apply to this administrative regulation.

(1) "Environmentally sensitive feature" means a stream, spring, sinkhole, wetland, state or national park, wilderness area, or wildlife refuge.

(2) "Existing gathering line" means any gathering line installed and not abandoned or taken out of service prior to the effective date of this administrative regulation.

(3) [(2)] "GPS" means the collection method of acquiring location data using the Global Positioning System, stationary location data, such as line makers [as] required by this administrative regulation shall be captured in three (3) [sub] meter accuracy, reported as latitude and longitude and recorded in degrees and decimal degrees; gathering line location data may be submitted as waypoints and track logs reported as latitude and longitude and recorded in degrees and decimal degrees. All GPS data shall be recorded in the datum of WGS84. Data may be submitted electronically as an ArcView shape file or as an ASCII file.

(4) [(3)] "Gas production flow line" means the segment of a gathering line running from a well to the point of interconnection

with another gathering line or production compressor. When a well produces both oil and gas, the line from the well shall be considered to be a gas production flow line, to which all appropriate requirements of this administrative regulation are applicable.

(5) [(4)] "Gathering line" means any pipeline that is installed or used for the purpose of transporting crude oil or natural gas from a well or production facility to the point of interconnection with another gathering line, an existing storage facility or a transmission or main line, and includes all lines between interconnections, except those lines or portions thereof subject to the exclusive jurisdiction of the United States Department of Transportation under 49 C.F.R. Parts 191, 192, 194 and 195.

(6) [(5)] "Oil production flow line" means a gathering line running from a well or wells to a tank battery for production treatment and storage. In the case of an injection well, the line from the tank battery to the well shall be considered an oil production flow line, to which all appropriate requirements of this administrative regulation are applicable [located on the same property or unit as the well or wells].

(7) [(6)] "Production compressor" means a compressor installed on a gathering line and used to increase produced gas pressure to enhance delivery.

(8) [(7)] "Transmission line" means a pipeline that is subject to the exclusive jurisdiction of the United States Department of Transportation under 49 C.F.R. Parts 191, 192, 194 and 195.

Section 2. Applicability. This administrative regulation shall apply to gathering lines installed under permits issued after the effective date of this administrative regulation and shall not apply to existing gathering lines unless such lines are identified as being subject to the requirements of [a-particular] Section 4 of this administrative regulation [below].

Section 3. License. (1) The operator of any gathering line, including an existing gathering line, shall obtain a gathering line operator's license from the division to operate any and all [as] oil or gas gathering lines operated by him, [line] upon the effective date of this administrative regulation. The operator in physical control of any gathering line shall maintain a current license even if the gathering line is shut in or idle. All gathering lines operated by the same operator shall be subject to a single gathering line operator's license. An operator of an existing gathering line shall make application for license within ninety (90) days of the effective date of this administrative regulation.

(2) Each licensee shall annually submit a completed license renewal form using the "Application - Gathering Line Operator's License," Form ED-2, on or before the expiration date of his current license. Annual renewal of the gathering line operator's license shall be made on January 1 and due no later than February 15. If there are no subtenant changes to the operator information provided in the initial application for license, the license shall be renewed upon receipt of the license fee. A licensee may also submit the license renewal information and payment through the division's on-line application when [at-such-time] the on-line application becomes available. To qualify for a license or license renewal, the applicant shall be in compliance with applicable laws and shall submit the following items to the division:

(a) An application satisfying the requirements of subsection (3) of this section;

(b) A \$100 license fee, except that an applicant for a license to operate a gathering line for a gas well used strictly for the purpose of heating a residential dwelling shall pay an annual license fee of twenty-five (25) dollars for each dwelling.

(3) Application. The application for a license or a license renewal shall be notarized or meet the requirements for electronic signature when electronically submitted as per KRS Chapter 369 and filed with the division and shall contain the following information:

(a) The full name under which the operator transacts or intends to transact business under the license and the operator's correct mailing address. [If the operator is a partnership or association,] The application shall include the name and address of the principal officers [each partner or member] of the partnership or corpo-

~~ration [association. If the operator is a corporation, the application shall contain the names and addresses of the principal officers], including the agent for process;~~

(b) Any other information that the form may require; and

(c) Each application for a license shall be signed or submitted with electronic signature as previously described by the operator if the operator is a natural person, by a principal officer ~~[partner or a member]~~ if the operator is a partnership or ~~[association, or by an executive officer if the operator is a]~~ corporation.

Section 4. Maps of Existing Gathering Lines. Within eighteen (18) months of the effective date of this administrative regulation, each operator of any existing gathering line shall file with the division a map, which outlines approximate the location of the existing gathering line. The gathering line may be noted over an enlarged section of a United States Geological Survey (USGS) 1:24000 topographic map, which may be enlarged to approximately 1"=400' and be submitted on an 8 1/2 in. x 14 in. sheet; additional maps may be provided if necessary to fully document the total length of the gathering line. This requirement for the filing of maps may also be satisfied by electronic submission of the maps subject to the division being able to import and view the map files.

Section 5. Prior to the installation of a gathering line, the operator shall submit a permit application to the division for the installation and operation of the gathering line in the following manner:

(1) Permit by rule for an oil production flow line. Notwithstanding any other provision of this administrative regulation, an oil production flow line shall be deemed to have a permit by rule upon the issuance of the well drilling permit if the operator satisfies the following conditions:

(a) Notifies the division in the manner prescribed in Section 7 of this administrative regulation upon the successful completion of the well and prior to the installation or disturbance of any surface upon which the oil production flow line shall be installed;

(b) ~~[Complies with all applicable requirements of 40 C.F.R. Part 142;~~

(c) ~~[Complies with Sections 9, 10, 11(1), (2), (3), (4), 12 and 14 of this administrative regulation; and~~

(d) ~~[Pays a fee of \$100, in addition to the well permit fee required by KRS 353.590(2).~~

(2) Permit by rule for a gas production flow line. Notwithstanding any other provision of this administrative regulation, a gas production flow line shall be deemed to have a permit by rule upon the issuance of the well drilling permit if the operator satisfies the following conditions:

(a) Notifies the division in the manner prescribed in Section 7 of this administrative regulation upon successful completion of the well and prior to the installation or disturbance of any surface upon which that gathering line shall be installed; and

(b) Pays a fee of \$200, in addition to the well permit fee required by KRS 353.590(2).

(3) Permit for a gathering line other than an oil production or gas production flow line. Notwithstanding any other provision of this administrative regulation, the division may issue a permit for the installation and operation of a gathering line other than an oil production or gas production flow line if the operator satisfies the following conditions:

(a) Files an application with the division for a permit for the installation, reclamation, and operation of a gathering line in the manner prescribed by Section 7 of this administrative regulation prior to the installation or disturbance of any surface upon which that gathering line shall be installed; and

(b) Pays a fee of \$500.

Section 6. Transfer of Ownership of a Gathering Line. A successor operator of a gathering line shall notify the division in advance of commencing use or operation of a gathering line. The successor shall assume the obligations of this administrative regulation and relieve the original permittee of responsibility under this administrative regulation with respect to the gathering line. It shall be the responsibility of the selling operator to require the suc-

cessor operator to notify the division before use or operation is commenced by the successor and relief of responsibility under this administrative regulation is granted to the original permittee. In the case of an oil production or gas production flow line, the successor shall be deemed to have provided notice to the division upon the successful completion of the well transfer, as required under KRS 353.590(6), for the oil production or gas production flow line applicable to the corresponding well.

Section 7. Permit Requirements. (1) The notification or application for permit for the installation~~[reclamation]~~ and operation of a gathering line shall be submitted to the division using the "Notification/Application for a Gathering Line Permit: Installation, Reclamation and Operation Plan," Form ED-11, along with an attached topographical map depicting the location of the proposed line which shall be in sufficient detail to allow ready identification of adjacent surface features. An operator may also submit the notification or application, map and payment through the division's on-line application when ~~[at such time]~~ the on-line application becomes available subject to the provisions of KRS Chapter 369. The map shall have a legend with the names of the gathering line owner and operator and any owners of surface tracts upon which the gathering line is to be installed not otherwise listed on the map; the scale of the map; the well name and number, if applicable; and the lease name, if applicable; and shall depict the following:

(a) The approximate locations of property lines, dwellings, environmentally sensitive features and road and stream crossings along the path of the gathering line;

(b) The names of the owners of surface tracts upon which the gathering line is to be installed, as identified as the party assessed for the purposes of property taxation in the records of the property valuation administrator of the county in which the land is located, unless listed in the legend; and

(c) The approximate acreage to be disturbed along the path of the proposed gathering line.

(d) Items (a) through (c) shall be noted clearly and legibly on an enlarged section of a United States Geological Survey (USGS) 1:24000 topographic map, which may be enlarged to approximately 1"=400' and be submitted on an 8 1/2 in. x 14 in. sheet. This requirement for the filing of maps may also be satisfied by electronic submission of the maps subject to the division being able to import and view the map files.

(2) In filing the application for the installation~~[reclamation]~~ and operation of a gathering line with the division, the operator shall state that he has the authority necessary to install and operate the gathering line upon the property which the gathering line will traverse and that he maintains general liability insurance coverage for his gathering line operations. The operator shall include the division as a "certificate holder" on his policy so that the division shall receive advance notice of any cancellation of the operator's general liability insurance.

(3) The operations and reclamation plan required by KRS 353.5901, filed in conjunction with the application for a permit for a well located on a tract on which there is a severance of the ownership of the surface and mineral estates, shall satisfy this administrative regulation's requirements for an operations and reclamation plan applicable to the property upon which the well is drilled.

(4) If the operations and reclamation plan is not subject to KRS 353.5901, the operator shall file a plan which includes a short narrative indicating the following:

(a) Location of all areas to be disturbed in connection with the installation of the gathering line and the proposal to prevent erosion and sedimentation on those areas;

(b) A revegetation plan which includes a listing or description of fertilizers and soil amendments and seed or trees to be planted for each affected area requiring revegetation treatment and the types and amounts per acre of seed or trees to be planted; and

(c) A proposed plan for the timely reclamation of all disturbed areas.

Section 8. Right-of-Way Agreements. (1) Prior to submitting an application for a permit or prior to any installation or operations on any surface on which a gathering line is proposed other than the property upon which the well is located, the operator shall obtain

the necessary authority, right-of-way or lease agreement from an [the surface] owner of the property on which the gathering line is to be installed. [The agreement shall contain the following provisions, unless waived by the surface owner:

- (a) The reclamation of all disturbed areas.
- (b) A description of the timing of the operation to accommodate seasonal uses of the land by the surface owner and the need of the operator to locate the gathering line expeditiously.
- (c) A plan to minimize the impact on the other uses of the land by the surface owner, including the use of timber, houses, barns, ponds, crops, and other improvements.
- (d) Notification to the surface owner upon execution of an agreement to sell and transfer a gathering line; this notification is not required to the surface owner of the property for an oil or gas production flow line on which the well it serves is located.
- (e) The minimum distance from the gathering line to any inhabited building on the surface owner's property.
- (f) These provisions shall not require the payment of any additional compensation to the surface owner other than as required by KRS Chapter 353.595(5).]

(2) Prior to the issuance of a permit for the installation and operation of a gathering line on which the operator has an existing right-of-way, lease or deed, or on land that requires a new right-of-way by the operator, the operator shall certify in the application for the permit that he has met and conferred with, or offered to meet and confer with, the surface owner as to any activity that may disturb the surface. [Nothing in this section shall be construed to limit or otherwise abridge the terms of any deed, right-of-way or lease agreement executed prior to the effective date of this administrative regulation by the surface owner of the property upon which the gathering line will be installed.]

Section 9. Meeting with Bonded Permittee. Prior to the issuance of a permit for the installation [reclamation] and operation of a gathering line on land which is permitted or bonded under the provisions of KRS Chapter 350, the operator of the gathering shall certify in the application for a permit that the operator has met and conferred with, or offered to meet and confer with, the bonded permittee as to any activity that may disturb the permitted area.

Section 10. Reclamation Plans. Reclamation of all disturbed areas shall be conducted in accordance with the reclamation plan on file with the division. Any amendments to the reclamation plan shall be submitted to and approved by the division prior to commencement of installation or as soon as practical after discovery that reclamation shall be conducted in a manner other than that described in the reclamation plan on file with the division. If the surface is disturbed incidental to the repair of a gathering line after reclamation has occurred under the reclamation plan, the reclamation of the area so disturbed shall be commenced [restored and revegetated] within thirty (30) days of completion of the repair operation, if practical. The operator shall satisfy the following standards for excavation, backfilling and reclamation:

- (1) When a gathering line crosses agricultural lands, the operator shall segregate topsoil while trenching, and trenches shall be backfilled so that the soils are returned to their original relative positions and contour, unless waived by the surface owner. This requirement to segregate and backfill topsoil shall not apply to trenches that are twelve (12) inches or less in width.
- (2) On agricultural lands and nonagricultural lands, gathering line trenches shall be maintained in order to correct trench subsidence and reasonably minimize erosion. Interim and final reclamation, including revegetation, shall be performed in accordance with the reclamation plan.

Section 11. General Requirements. (1) Burial of a gathering line. The operator shall bury a gathering line or portion thereof that crosses agricultural land or that would otherwise interfere with the use of a pre-existing private roadway, if requested to do so by the owner of the surface of the agricultural land or of other land to which access would be affected, prior to the installation of the gathering line to protect it from damage. The gathering line shall be buried to a minimum depth of twenty-four (24) inches, except where solid rock is encountered, in which case the minimum depth

of burial shall be twelve (12) inches, if practical. Where an underground structure or other geologic or economic condition prevents a gathering line from being buried in accordance with the standards set out above, or when there is an agreement between the surface owner and the operator whereby the minimum standard is waived, the line may be installed at less than the minimum depth or above ground.

(2) A gathering line constructed of plastic pipe shall be installed below ground level, unless otherwise permitted by subsection (3) of this section, and in accordance with the following:

(a) The operator shall undertake efforts to minimize shear and tensile stresses; and

(b) A tracer line, location device, or suitable conductive wire shall be placed in the trench to facilitate the detection of the gathering line.

(3) A gathering line constructed of plastic pipe may be temporarily installed above ground if:

(a) The operator demonstrates that the cumulative period of above-ground exposure of the pipe does not exceed the manufacturer's recommended maximum period of exposure or two (2) years, whichever is less; and

(b) The pipe either is located so as to minimize the possibility of damage by external forces or is otherwise protected against damage; and

(c) The pipe adequately resists exposure to ultraviolet light and high and low temperature; or

(d) The pipe is being used during a production test period not to exceed ninety (90) days.

(4) Line burial at road crossing. Notwithstanding any other provision of this administrative regulation, a gathering line crossing a road shall be buried in accordance with the requirements of the agency having jurisdiction over the road.

(5) Line markers. The operator shall install and maintain line markers over an active buried gathering line in accordance with the following standards:

(a) At intervals of no greater than 500 feet, corresponding to the 500 foot GPS data requirements described in subsection (8) of this section, provided, however, that this requirement shall not apply to lines crossing agricultural lands;

(b) At points where the line changes direction, so that the line location is accurately known;

(c) At both sides of each public or private road crossing and at each railroad crossing; and

(d) Each marker shall contain the word "Warning," "Caution," or "Danger," followed by the words "Petroleum Pipeline" or "Gas Pipeline," whichever is appropriate, in letters at least one (1) inch high with one-quarter (1/4) inch stroke and the name of the operator with a twenty-four (24) hour emergency response telephone number.

(6) Testing of a gathering line. Before placing a gathering line in operation, it shall be tested to ensure that it is capable of maintaining 110 percent of the maximum anticipated operating pressure. In conducting the test, the operator shall ensure that reasonable precautions are taken to protect his employees and the general public. The testing may be conducted using natural gas, compressed air, inert gas or water. Production flow lines operating at less than fifteen (15) psig are exempt from pressure testing requirements.

(7) Patrolling, maintenance and repair. All gathering lines shall be maintained in good operating condition at all times and the operator shall take reasonable precautions to prevent failures, leakage and corrosion by performing the following procedures:

(a) Perform on-site inspections of a permitted gathering line at least once each calendar year, at intervals not to exceed eighteen (18) months. Whenever an operator discovers any condition that could adversely affect the safe and proper operation of a gathering line, the operator shall correct it within a reasonable time and in accordance with KRS 353.160. However, if the condition presents an immediate hazard to persons or property, the operator shall not operate the affected part of the system until the unsafe condition has been corrected;

(b) In repairing the gathering line, the operator shall take appropriate action to conduct the repair in a safe manner so as to prevent injury to persons and damage to property; and



(c) Maintain records of gathering line inspections and leak repair for division inspection, if requested, for at least three (3) years.

(8) As-built requirement. The as-built location of the gathering line shall be depicted with GPS data points spaced every 500 feet, if practical, at points where the gathering line changes direction and at the beginning and termination points of the gathering line. All information regarding the as-built location shall be submitted to the division within twelve months of completion of the gathering line.

(9) Compressor station requirements. All wellhead and field compressors shall be installed and maintained according to the following requirements:

(a) The operator shall maintain a positive suction pressure at all times;

(b) The operator shall install safety devices to ensure the downstream pressure does not exceed the test pressure of the gathering line; and

(c) The operator shall record a GPS location of all compressor station sites and submit that location data to the division.

Section 12. Reporting of Incidents. (1) As soon as reasonably practicable following discovery of an incident regarding the installation, reclamation or operation of a gathering line, the operator shall give notice by telephone to the division inspector responsible for the county in which the line is installed or to the division inspector supervisor for the area, of any the following:

(a) Personal injury requiring hospitalization or a fatality;

(b) Either fire or explosion not intentionally set by the operator for purposes of routine maintenance or construction;

(c) The release of a significant volume of gas that would require a protective action being taken by the general public; or

(d) The pollution of any stream, river, lake or reservoir, or other similar body of water, in violation of applicable water quality standards.

(2) Nothing in this requirement for the reporting of incidents shall be deemed to release the operator from making any notice required by any other state or federal agency.

(3) Notice made under this section shall include the following information:

(a) Name and address of the operator;

(b) Name and telephone number of the person making the report;

(c) Location of the incident;

(d) Date and time of the incident;

(e) A brief description of the incident;

(f) Number of, and information regarding, personal injuries or fatalities, if any; and

(g) Any other significant facts known by the operator that are relevant to the cause of the incident or extent of the damages.

Section 13. Emergency Response Plans. The operator shall prepare a manual of written procedures for the making of an emergency response, available to the division upon request, and shall keep that manual in a location accessible to employees whose responsibilities include implementation of an emergency response. The operator shall provide training to those employees and review their performance following an emergency to determine whether applicable procedures were effectively followed in that emergency. The manual shall be reviewed at least once each calendar year and appropriate changes made as necessary to ensure that the manual is an effective emergency response tool. The manual shall include procedures for the following in order to facilitate safety when an emergency condition occurs:

(1) Receiving, identifying, and classifying notices of events which require immediate response by the operator or notice to fire, police, or other appropriate emergency response entities and communicating this information to appropriate operational personnel for corrective action.

(2) Providing prompt and effective response to each type of emergency, including gas, fire, explosion or natural disaster near or involving a building or adjacent facility.

(3) Dispatching personnel, equipment, and instruments, as needed, to the scene of the emergency.

(4) Taking necessary action, such as emergency shutdown or pressure reduction, to minimize the amount of release from the gathering line in the event of a failure.

(5) Minimizing public exposure to injury and probability of accidental ignition by assisting with evacuation of residents and assisting with the control of traffic on roads and railroads in the affected area, or by taking other appropriate action.

(6) Notifying fire, police, and other appropriate emergency response entities of a gathering line incident or emergency and coordinating with them in devising responses to be made during an emergency. Methods to accomplish this shall include the following:

(a) Including in the emergency response manual a listing of appropriate fire, police, and other health and safety entities, along with their officials' names and emergency telephone numbers;

(b) Establishing and maintaining liaison with fire, police, and other appropriate emergency response entities to determine the responsibility and resources of each government organization that may respond to a gathering line emergency;

(c) Apprising fire, police and other appropriate emergency response entities of the operator's ability to respond to a gathering line emergency;

(d) Identifying the types of gathering line emergencies about which the operator notifies fire, police and other appropriate emergency response entities; and

(e) Determining the manner in which the operator and fire, police and other appropriate emergency response entities can engage in mutual assistance to minimize hazards to life or property.

**(f) Providing a copy of the emergency response manual to fire, police and other appropriate emergency response entities.**

(7) An operator may incorporate the applicable spill prevention, control, and countermeasures (SPCC) plan into the emergency response manual.

Section 14. Abandonment. Each gathering line abandoned in place, unless otherwise agreed to be removed under a right-of-way or lease agreement, shall be disconnected from all sources and supplies of natural gas and petroleum, purged of liquid hydrocarbons, depleted to atmospheric pressure, and cut off three (3) feet below ground surface, or at the depth of the gathering line, whichever is less, and sealed at the ends. **Prior to abandonment, the operator shall contact the division inspector and request a site scanning for naturally occurring radioactive materials to be conducted by the division inspector.**

Section 15. Inspections. The commissioner of the department may, by written order or by other means appropriate under the circumstances, designate and authorize representatives to perform duties pursuant to the administrative regulations contained in 805 KAR Chapter 1. Unless the commissioner has made a written order contrary to the terms of this section, personnel authorized by the director are deemed the authorized representatives of the department for the purposes of this administrative regulation as follows:

(1) General. In accordance with the provisions of this administrative regulation, the division shall conduct inspections, studies, investigations or make other determinations as it deems reasonable and necessary to obtain information and evidence which shall ensure that the installation, reclamation and operation of gathering lines are conducted in accordance with the provisions of all applicable statutes and administration regulations, and all terms and conditions of the gathering line permit.

(2) Right of entry and access. Authorized employees of the division shall have unrestricted right of entry to all portions of the gathering line for any purpose associated with their duties pursuant to this administrative regulation, including but not limited to making inspections and delivering documents or information of any kind to persons responsible for or otherwise associated with the gathering line.

(3) Timing and frequency of inspections.

(a) The division shall determine the frequency of its inspections of gathering lines;

(b) Inspections shall ordinarily be conducted at irregular and unscheduled times during normal workdays, but may be conducted

at night, on weekends or on holidays if the division deems these inspections necessary to properly monitor compliance with all applicable statutes and administrative regulations and the terms and conditions of the gathering line permit; and

(c) The division shall have no obligation to give prior notice that an inspection shall be conducted or to obtain a warrant to do so.

(4) Citizen's request for inspection of a gathering line.

(a) Any citizen may request that the division conduct an inspection of a gathering line by furnishing to the division a signed statement or an oral report followed by a signed statement in which circumstances are set out which give the division reason to believe that a violation, condition or practice in violation of this administrative regulation or a permit condition exists, and setting forth a telephone number and address at which the person making the request can be contacted;

(b) The identity of any person supplying information to the division relating to a possible violation, condition or practice in violation of this administrative regulation or permit condition shall remain confidential with the division if requested by that person, unless disclosure is required by law; and

(c) Within a reasonable time, the division shall advise the person making the request for inspection or providing information to the division of the following:

1. If no inspection was conducted, an explanation of the reasons for which no inspection was conducted.

2. If an inspection was conducted, a description of the enforcement action taken, if any, or an explanation of why no enforcement action was taken.

(5) Notice of noncompliance. Any authorized representative of the division may issue to the operator ~~[or other responsible person]~~ a notice of noncompliance and order for remedial measures if, on the basis of an inspection, he finds a violation of this administrative regulation, any permit condition, or any other applicable requirement. The notice of noncompliance shall contain the following:

(a) The nature of the violation; and

(b) The provision of a period of forty-five (45) days from the date of issuance of the notice for the taking of corrective action or making of an agreement with the division, which may include a schedule for the accomplishment of interim corrective procedures, if appropriate. The director or his authorized representative may extend the time established for the taking of corrective action or for accomplishment of an interim remedial requirement for good cause shown.

#### Section 16. Order of Cessation and Immediate Compliance. (1) Issuance.

(a) If the operator to whom a notice of noncompliance is issued fails to comply with the terms of the notice within the time for the taking of corrective action established in the notice of noncompliance or agreement made regarding corrective measures as subsequently extended, the director may issue to the operator an order for cessation and immediate compliance;

(b) The director may issue an order for cessation and immediate compliance if he finds, on the basis of an inspection performed by any authorized representative, any condition or practice, any violation of this administrative regulation or any violation of a term or condition of the applicable permit which:

1. Is creating or can reasonably be expected to create an imminent danger to the health or safety of the public; or

2. Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources;

(c) The director may issue an order for the cessation of installation and immediate compliance if he finds, on the basis of an inspection performed by any authorized representative, that gathering line installation is being conducted without a valid gathering line permit in accordance with this administrative regulation.

(2) Effect.

(a) The order for cessation and immediate compliance shall require the cessation of the operation of the gathering line or portion thereof that is the subject of the notice of noncompliance. The order shall also require the operator to whom it is issued to undertake any procedure reasonably deemed necessary to abate the violation, condition, or practice in the most expeditious manner possible, including but not limited to the use of existing or addi-

tional personnel and equipment;

(b) The order shall remain in effect until the violation, condition, or practice has been abated and until the order is vacated, modified, or terminated in writing by the director; and

(c) The operator shall continue to perform reclamation operations and other activities intended to protect public health, safety and the environment during the period of any cessation order unless the order requires that the reclamation operations and other activities cease.

(3) Modification, extension, and termination.

(a) The director may, by written notice, modify or terminate an order for cessation and immediate compliance issued under this section for good cause and may extend the time for abatement if the failure to abate within the period initially established was not caused by lack of diligence on the part of the operator to whom it was issued;

(b) The director may terminate an order for cessation and immediate compliance, by written notice to the operator to whom the order was issued, if he determines that all violations, conditions, and practices noted in the notice of noncompliance have been abated. Termination of the order of cessation and immediate compliance shall not affect the right of the division to impose any other applicable sanction authorized by law.

Section 17. Penalties. An operator in noncompliance with the requirements of this administrative regulation is subject to the penalties established in KRS 353.991.

Section 18. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Application - Gathering Line Operator's License," Form ED-2, December 2003.

(b) "Notification/Application for Gathering Line Permit: Installation, Reclamation and Operation Plan," Form ED-11, December 2003.

(2) These forms may be inspected, copied, and obtained, subject to copyright law, at the Department Natural Resources [of ~~Mines and Minerals~~], 1025 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

HUGH ARCHER, Commissioner  
LAJUANA S. WILCHER, Secretary

APPROVED BY AGENCY: January 14, 2004

FILED WITH LRC: January 15, 2004 at noon

CONTACT PERSON: Rick Bender, Director, Department of Mines and Minerals, Division of Oil and Gas, P.O. Box 2244, 1025 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-0140, fax (502) 573-0152.

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rick Bender

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes provisions for the installation, reclamation of disturbed areas and safety requirements of new gathering lines as they pertain to oil and gas production operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement an effective program to control the effects of gathering lines in oil and gas production operations, in accordance with KRS 353.500 and 353.5901.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute, KRS 353.500(2), "The General Assembly finds that governmental responsibility for regulating all aspects of oil and gas exploration, production, development, gathering, and transmission rests with state government. The department shall promulgate regulations relating thereto and take all actions necessary to assure efficient oil and gas operations and to protect the property, health, and safety of the citizens of the Commonwealth in a manner consistent with KRS Chapter 353, and to the exclusion of all other nonstate governmental entities except as provided in KRS Chapter 100. The department shall promulgate regulations relating to gathering lines within 6 months of the effective date of this act. Nothing in this



section shall be construed as limiting the rights of local governmental units to regulate the use of streets, highways, and rights-of-way. The department shall report quarterly to the Legislative Research Commission beginning July 1, 2003 through December 31, 2003. The report shall detail progress made in carrying out this section, and the efficacy of the regulatory programs implemented." This act became effective June 24, 2003 setting in motion a timeline, requiring the Department For Natural Resources to promulgate regulations relating to gathering lines no later than December 24, 2003. By promulgation of this administrative regulation, the department shall have conformed with the statutory mandate of regulating gathering lines and the effects of them upon the citizens and environment of the Commonwealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: This is a new administrative regulation.

(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: The regulated entities are approximately 700 oil and gas operators, with the number affected dependent on the number of companies which will develop new installation of gathering lines following the implementation of this administrative regulation. The Department for Natural Resource, Division of Mines and Minerals will be charged with compliance oversight.

(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: Companies will be required to apply for permits and pay additional fees. There will also be additional preparation and planning required to meet the submittal requirements established in this administrative regulation, establishing right-of-way agreements with surface owners and establishing reclamation plans for disturbed property. The Division of Mines and Minerals will permit the lines and inspect them to ensure they are in compliance with the administrative regulation.

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

(a) Initially: \$500,000 for start-up costs for vehicles, computers, other associated equipment and first year funding of 5 additional personnel.

(b) On a continuing basis: \$300,000 annually for support of additional 5 personnel.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is 100% from the payment of fees authorized in the 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 the change if it is an amendment: This program shall substantially increase the workload of the division and shall require the hiring of new employees. The division shall need to hire 3 additional field inspectors, one geologist/engineer with GIS training and experience and one administrative secretary. The division's main office (duties of the geologist/engineer and secretary) shall: a) review applications and notifications for new gathering lines; b) issue permits; c) file corresponding records and maps; and d) develop and maintain an electronic tracking and mapping system. Division field inspectors (existing and the additional three new field inspectors) shall perform numerous inspections of various types that are not currently performed by them. Notices of violation shall be written with subsequent follow-up to ensure the problem has been corrected. Complaints shall be investigated. Therefore, new fees are necessary to implement this new administrative regulation in order to cover the anticipated costs to the state.

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

administrative regulation establishes fees for permits to construct and operate gathering lines.

(9) TIERING: Is tiering applied? Tiering is not applied because the requirement to permit gathering lines must apply equally to all oil and gas production operations.

## CABINET FOR HEALTH AND FAMILY SERVICES

### Department for Medicaid Services Division of Medicaid Services for Mental Health/Mental Retardation (Amended After Comments)

#### 907 KAR 3:090. Acquired brain injury services.

RELATES TO: KRS 205.8451, 205.8477, 42 C.F.R. 441 Subpart G, 455 Subpart B, 42 U.S.C. 1396a, b, d, n

STATUTORY AUTHORITY: KRS 194A.030(2) [(4)], 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the coverage provisions relating to home- and community-based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services. The purpose of acquired brain injury waiver services is to rehabilitate and retrain an individual with an acquired brain injury to reenter and function independently within a community, given the community's existing resources.

Section 1. Definitions. (1) "ABI" means an acquired brain injury.

(2) "Acquired brain injury waiver service" or "ABI waiver service" [~~ABI waiver services~~] means a home and community based waiver service for an individual [~~services provided to a Medicaid eligible person aged twenty-one (21) to sixty-five (65)~~] who has acquired a brain injury to his or her central nervous system of the following nature:

(a) Injury from a physical trauma;

(b) Damage from anoxia or a hypoxic episode; or

(c) Damage from an allergic condition, toxic substance or another acute medical incident.

(3) "ABI provider" means an entity that meets the criteria established in Section 2 of this administrative regulation.

(4) "ABI recipient" means an individual who meets the criteria established in Section 3 of this administrative regulation.

(5) "Assessment of needs and plan of care" means a written assessment and individualized plan submitted on a MAP-011 form that is developed by:

(a) An ABI recipient and legal representative if appointed;

(b) A case manager;

(c) An ABI service provider; and

(d) Others as designated by the ABI recipient.

(6) "Behavior intervention committee" or "BIC" means a group of individuals established to evaluate the technical adequacy of a proposed behavior intervention for an ABI recipient.

(7) "BISU" or "brain injury service unit" means the brain injury service unit in the Division of Mental Health, Department for Mental Health and Mental Retardation.

(8) "Case manager" means an individual who manages the overall development and monitoring of a recipient's assessment of needs and plan of care.

(9) "Crisis prevention and response plan" means a plan developed to identify any potential risk to a recipient and to detail a strategy to minimize the risk.

(10) "DCBS" means the Department for Community Based Services.

(11) "Department" means the Department for Medicaid Services or its designee.

(12) "DMHMR" means the Department for Mental Health and

Mental Retardation Services.

(13) "Good cause" means a circumstance beyond the control of an individual that affects the individual's ability to access funding or services, including:

(a) Illness or hospitalization of the individual which is expected to last sixty (60) days or less;

(b) Death or incapacitation of the primary caregiver;

(c) Required paperwork and documentation for processing in accordance with Section 3 of this administrative regulation that has not been completed but is expected to be completed in two (2) weeks or less; or

(d) The individual or his or her legal representative has made diligent contact with a potential provider to secure placement or access services but has not been accepted within the sixty (60) day time period.

(14) "Human rights committee" means a group of individuals established to protect the rights and welfare of an ABI recipient.

(15) "Interdisciplinary team" means a group of individuals that assist in the development and implementation of an ABI's recipient's plan of care consisting of:

(a) The ABI recipient and legal representative if appointed;

(b) A chosen ABI service provider;

(c) A case manager; or

(d) Others as designated by the ABI recipient.

(16) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(17) "Occupational therapist" means an individual who is licensed in accordance with KRS 319A.010.

(18) "Psychologist" means an individual who is licensed in accordance with KRS 319.050.

(19) "Psychologist with autonomous functioning" means an individual who is licensed in accordance with KRS 319.056.

(20) "Qualified mental health professional" means a qualified mental health professional as defined in KRS 202A.011(12).

(21) "Speech therapist" means an individual who is licensed in accordance with KRS 334A.030.

(22) "Transition plan" means a plan that is developed to aid an ABI recipient in transitioning from the ABI program into the community.

Section 2. Provider Participation. (1) In order to provide an ABI waiver service in accordance with Section 4 of this administrative regulation, an ABI provider shall:

(a) Be enrolled as a Medicaid provider in accordance with 907 KAR 1:671;

(b) Be certified by the department prior to the initiation of the service;

(c) Be recertified at least annually by the department; and

(d) Have an office within the Commonwealth of Kentucky.

(2) An ABI provider shall comply with 907 KAR 1:672, 907 KAR 1:673 and 902 KAR 20:078.

(3) An ABI provider shall have a governing body that shall:

(a) Be a legally-constituted entity within the Commonwealth of Kentucky; and

(b) Be responsible for the overall operation of the organization including establishing policy that complies with this administrative regulation concerning the operation of the agency and the health, safety and welfare of an ABI recipient served by the agency.

(4) An ABI provider shall:

(a) Ensure that an ABI waiver service is not provided to an ABI recipient by a staff member of the ABI provider who has one (1) of the following blood relationships to the ABI recipient:

1. Child;

2. Parent;

3. Sibling; or

4. Spouse;

(b) Not enroll an ABI recipient for whom they cannot meet the service needs; and

(c) Have and follow written criteria that complies with this administrative regulation for determining the eligibility of an individual for admission to services.

(5) An ABI provider shall comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of

1996.

(6) An ABI provider shall meet the following requirements if responsible for the management of ABI recipient funds:

(a) Separate accounting shall be maintained for each ABI recipient or for his or her interest in a common trust or special account;

(b) Account balance and records of transactions shall be provided to the ABI recipient or legal representative on a quarterly basis; and

(c) The ABI recipient or legal representative shall be notified when a large balance is accrued that may affect Medicaid eligibility.

(7) An ABI provider shall have a written statement of its mission and values.

(8) An ABI provider shall have written policy and procedures for communication and interaction with a family and legal representative of an ABI recipient which shall:

(a) Require a timely response to an inquiry;

(b) Require the opportunity for interaction with direct care staff;

(c) Require prompt notification of any unusual incident;

(d) Permit visitation with the ABI recipient at a reasonable time and with due regard for the ABI recipient's right of privacy;

(e) Require involvement of the legal representative in decision-making regarding the selection and direction of the service provided; and

(f) Consider the cultural, educational, language and socioeconomic characteristics of the ABI recipient.

(9) An ABI provider shall ensure the rights of an ABI recipient by:

(a) Making available a description of the rights and the means by which they can be exercised which shall include:

1. The right to time, space, and opportunity for personal privacy;

2. The right to retain and use personal possessions including clothing, personal spending money and cigarettes; and

3. For a residential, personal care, companion or respite provider, the right to communicate, associate and meet privately with a person of the ABI recipient's choice, including:

a. The right to send and receive unopened mail; and

b. The right to private, accessible use of the telephone;

(b) Maintaining a grievance and appeals system;

(c) Establishing a human rights committee which shall:

1. Include an:

a. Individual with a brain injury or a family member of an individual with a brain injury;

b. Individual not affiliated with the ABI provider; and

c. Individual who has knowledge and experience in rights issues;

2. Review and approve each assessment of need and plan of care with rights restrictions at a minimum of every six (6) months; and

3. Review and approve, in conjunction with the ABI recipient's team, behavior intervention plans that include highly restrictive procedures or contain rights restrictions;

(d) Establishing a behavior intervention committee which shall:

1. Include one (1) individual who has expertise in behavior intervention and is not the behavior specialist who wrote the behavior intervention plan;

2. Be separate from the human rights committee; and

3. Review and approve, prior to implementation and at a minimum of every six (6) months in conjunction with the ABI recipient's team, an intervention plan that includes highly-restrictive procedures or contain rights restrictions; and

(e) Complying with the Americans with Disabilities Act (28 C.F.R. Chapter 35).

(10) An ABI provider shall maintain fiscal and service records and incident reports for a minimum of six (6) years from the date that a covered service is provided and all the records and reports shall be made available to:

(a) The department;

(b) DMHMR or its designee;

(c) The ABI recipient's selected case manager;

(d) The Commonwealth of Kentucky, Cabinet for Health Services, Office of Inspector General or its designee;

(e) The United States General Accounting Office or its designee.

nee;

(f) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts or its designee;

(g) The Commonwealth of Kentucky, Office of the Attorney General or its designee;

(h) The Commonwealth of Kentucky, Cabinet for Families and Children or its designee; or

(i) The Centers for Medicare and Medicaid Services.

(11) An ABI provider shall cooperate with monitoring visits from monitoring agents.

(12) An ABI provider shall maintain a record for each ABI recipient served that shall:

(a) Be recorded in permanent ink;

(b) Be free from correction fluid;

(c) Have a strike through each error which is initialed and dated; and

(d) Contain no blank lines in between each entry.

(13) A record of each ABI recipient who is served shall:

(a) Be cumulative;

(b) Be readily available;

(c) Contain a legend that identifies any symbol and abbreviations used in making a record entry;

(d) Contain the following specific information:

1. The ABI recipient's name, Social Security number and Medicaid Identification Number (MAID);

2. An assessment summary relevant to the service area;

3. The assessment of needs and plan of care;

4. The crisis prevention and response plan that shall include:

a. A list containing emergency contact telephone numbers; and

b. The ABI recipient's history of any allergies with appropriate allergy alerts for severe allergies;

5. The transition plan that shall include:

a. Skills to be obtained from the ABI waiver program;

b. A listing of the on-going formal and informal community services available to be accessed; and

c. A listing of additional resources needed;

6. The training objective for any service which provides skills training to the ABI recipient;

7. The ABI recipient's medication record, including a copy of the prescription or the signed physician's order and the medication log if medication is administered at the service site;

8. Legally-adequate consent for the provision of services or other treatment including a consent for emergency attention which shall be located at each service site;

9. The Long Term Care Facilities and Home and Community Based Program Certification form - MAP-350 updated at recertification; and

10. Original and current level of care certification;

(e) Be maintained by the provider in a manner to ensure the confidentiality of the ABI recipient's record and other personal information and to allow the ABI recipient or legal representative to determine when to share such information as provided by law;

(f) Have the safety from loss, destruction or use by an unauthorized person ensured by the provider; and

(g) Be available to the ABI recipient or legal guardian according to the provider's written policy and procedures which shall address the availability of the record.

(14) An ABI provider shall:

(a) 1. Ensure that each staff, prior to providing direct care to a recipient, has tested negatively for tuberculosis within the past twelve (12) months; and

2. Maintain documentation of each staff person's negative tuberculosis test described in subparagraph 1 of this paragraph;

(b) For each potential employee, obtain a criminal record check from the Administrative Office of the Courts for each state in which the individual resided during the previous year:

1. Prior to employment; and

2. Prior to placement as a volunteer performing direct care staff or a supervisory function;

(c) Not employ or place an individual with a prior conviction of an offense delineated in KRS 17.165(1) through (3) or prior felony conviction;

(d) Not employ an individual who has a conviction of Driving Under the Influence (DUI) during the past year to transport an ABI

recipient;

(e) Not employ an individual who has a conviction of abuse or sale of illegal drugs;

(f) Not employ an individual who has a conviction of abuse, neglect or exploitation;

(g) Not employ an individual who has a substantiated fraud, abuse or neglect allegation;

(h) Evaluate the performance of each employee upon completion of the agency's designated probationary period and at a minimum of annually thereafter; and

(i) Conduct periodic and regularly-scheduled supervisory visits of all professional and paraprofessional direct-service staff at the service site in order to ensure that high quality, appropriate services are provided to the ABI recipient.

(15) An ABI provider shall:

(a) Have an executive director who:

1. Is qualified with a bachelor's degree in administration or a human services field; and

2. Has a minimum of one (1) year of administrative responsibility in an organization which served an individual with a disability;

(b) Have adequate direct-contact staff who:

1. Is eighteen (18) years or older;

2. Has a high school diploma or GED;

3. Has a minimum of two (2) years experience in providing a service to an individual with a disability; or

4. Has successfully completed a formalized training program such as nursing facility nurse aide training.

(16) An ABI provider shall establish written guidelines that address the health, safety and welfare of an ABI recipient, which shall include:

(a) Ensuring the health, safety and welfare of the ABI recipient;

(b) The prohibition of firearms and ammunition at a provider-service site;

(c) Maintenance of sanitary conditions;

(d) Ensuring each site operated by the provider is equipped with:

1. Operational smoke detectors placed in strategic locations; and

2. A minimum of two (2) correctly-charged fire extinguishers placed in strategic locations, one (1) of which shall be capable of extinguishing a grease fire and have a rating of 1A10BC;

(e) For a residential or structured day provider ensuring the availability of an ample supply of hot and cold running water with the water temperature at a tap used by the ABI recipient not exceeding 110 degrees Fahrenheit; .

(f) Ensuring that the nutritional needs of the ABI recipient are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

(g) Ensuring that staff administering medication:

1. Have specific training and documented competency on cause and effect and proper administration and storage of medication which shall be provided by a nurse, pharmacist or medical doctor; and

2. Document all medication administered, including self-administered, over-the-counter drugs, on a medication log, with the date, time, and initials of the person who administered the medication and ensure that the medication shall:

a. Be kept in a locked container;

b. If a controlled substance, be kept under double lock;

c. Be carried in a proper container labeled with medication, dosage, and time if administered to the ABI recipient or self-administered at a program site other than his or her residence; and

d. Be documented on a medication administration form and properly disposed of if discontinued; and

(h) Policy and procedures for on-going monitoring of medication administration.

(17) An ABI provider shall establish and follow written guidelines for handling an emergency or a disaster which shall:

(a) Be readily accessible on site;

(b) Include an evacuation drill to be conducted and documented at least quarterly and for a residential setting, scheduled to include a time when an ABI recipient is asleep; and

(c) Mandate that the result of an evacuation drill be evaluated

and modified as needed.

(18) An ABI provider shall:

(a) Provide orientation for each new employee which shall include the mission, goals, organization and policy of the agency;

(b) Require documentation of all training which shall include:

1. The type of training provided;
2. The name and title of the trainer;
3. The length of the training;
4. The date of completion; and
5. The signature of the trainee verifying completion;

(c) Ensure that each employee complete ABI training consistent with the curriculum that has been approved by DMHMR prior to working independently with an ABI recipient which shall include:

1. Sixteen (16) hours of orientation in brain injury;

2. Identifying and reporting abuse, neglect and exploitation;

3. First aid, which shall be provided by an individual certified as a trainer by the American Red Cross or other nationally-accredited organization; and

4. Coronary pulmonary resuscitation which shall be provided by an individual certified as a trainer by the American Red Cross or other nationally-accredited organization;

(d) Ensure that each employee completes six (6) hours of continuing education in brain injury annually;

(e) Not be required to receive the training specified in paragraph (c)1 of this subsection if the provider is a professional who has, within the prior five (5) years, 2000 hours of experience in serving a person with a primary diagnosis of a brain injury including:

1. An occupational therapist providing occupational therapy;

2. A psychologist or psychologist with autonomous functioning providing psychological services; or

3. A speech therapist providing speech therapy;

(f) Ensure that an individual, prior to volunteering, meets the requirements specified in subsection (14)(a), (b), (c), (d) (e), (f) and (g) of this section;

(g) Ensure that an individual volunteer, prior to working, receive training which shall include:

1. Sixteen (16) hours of orientation in brain injury as specified in paragraph (c)1, 2, 3, and 4 of this subsection;

2. Orientation to the agency;

3. A confidentiality statement; and

4. Individualized instruction on the needs of the ABI recipient to whom the volunteer provides services.

**Section 3. ABI Recipient Eligibility, Enrollment and Termination.** (1) To be eligible to receive a service in the ABI program an individual shall:

(a) Be twenty-one (21) to sixty-five (65) years of age with an ABI that involves cognition, behavior, or a physical function which necessitates supervised and rehabilitative services;

(b) Be placed on the ABI waiting list in accordance with Section 7 of this administrative regulation;

(c) Submit an application packet to the department which shall contain:

1. A copy of the allocation letter received from BISU;

2. An Assessment of Needs and Plan of Care form - MAP-011;

3. A statement for the need for long term care services which shall be signed and dated by a physician on an Acquired Brain Injury Waivers Services Program Physician Certification form - MAP-4099; and

4. A Long Term Care Facilities and Home and Community Based Program Certification form - MAP-350;

(d) Submit the following information to the department:

1. An ABI Waiver Services Program Memorandum of Understanding form - MAP-4096;

2. The ABI Recipient's Admission or Discharge DCBS Notification form - MAP-24B; and

3. A Freedom of Choice of Providers form - MAP-4102;

(e) Receive notification of potential funding allocated for ABI services for the individual in accordance with Section 7 of this administrative regulation;

(f) Meet nursing facility level of care requirements established in 907 KAR 1:022 including nursing facility services for a brain injury;

(g) Meet the following conditions:

1. Have a primary diagnosis that indicates an ABI with structural, nondegenerative brain injury;

2. Be medically stable;

3. Meet Medicaid eligibility requirements established in 907 KAR 1:605;

4. Exhibit cognitive, behavioral, motor or sensory damage with an indication for rehabilitation and retraining potential; and

5. Have a rating of at least four (4) on the Rancho Los Amigos Level of Cognitive Function Scale; and

(h) Receive notification of approval from the department.

(2) An individual shall not remain in the ABI waiver program for an indefinite period of time.

(3) The basis of an eligibility determination for participation in the ABI waiver program shall be:

(a) The presenting problem;

(b) The assessment of needs and plan of care goal;

(c) The expected benefit of the admission;

(d) The expected outcome;

(e) The service required; and

(f) The cost effectiveness of service delivery as an alternative to nursing facility and nursing facility brain injury services.

(4) An ABI waiver service shall not be furnished to an individual if the individual is:

(a) An inpatient of a hospital, nursing facility or an intermediate care facility for persons with mental retardation or a developmental disability; or

(b) Receiving a service in another home and community based waiver program.

(5) The department shall make:

(a) An initial evaluation to determine if an individual meets the nursing facility level of care criteria established in 907 KAR 1:022; and

(b) A determination of whether to admit an individual into the ABI waiver program.

(6) To maintain eligibility as an ABI recipient:

(a) An individual shall maintain Medicaid eligibility requirements established in 907 KAR 1:605; and

(b) A reevaluation shall be conducted at least once every six (6) months to determine if the individual continues to meet the nursing facility level of care criteria established in 907 KAR 1:022.

(7) An ABI case management provider shall notify the local DCBS office, BISU and the department via an ABI Recipient's Admission or Discharge DCBS Notification form - MAP-24B, if the ABI recipient is:

(a) Terminated from the ABI waiver program;

(b) Temporarily discharged;

(c) Admitted to a nursing facility; or

(d) Changing the primary provider.

(8) The department may exclude an individual from receiving an ABI waiver service for whom the aggregate cost of ABI waiver service would reasonably be expected to exceed the cost of a nursing facility service.

(9) Involuntary termination and loss of an ABI waiver program placement shall be in accordance with 907 KAR 1:563 and shall be initiated when:

(a)1. An individual fails to initiate an ABI waiver service within sixty (60) days of notification of potential funding without good cause shown; and

2. The individual or legal representative shall have the burden of providing documentation of good cause, including:

a. A statement signed by the recipient or legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers;

(b) An ABI recipient or legal representative fails to access the required service as outlined in the assessment of need and plan of care or a period greater than sixty (60) consecutive days without good cause shown;

1. The recipient or legal representative shall have the burden of providing documentation of good cause including:

a. A statement signed by the recipient or legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers; and

2. Upon receipt of documentation of good cause, the depart-

ment shall grant one (1) extension in writing which shall be:

a. Sixty (60) days for an individual who does not reside in a facility; and

b. The length of the transition plan and contingent upon continued active participation in the transition plan for an individual who does reside in a facility;

(c) An ABI recipient changes residence outside the Commonwealth of Kentucky; or

(d) An ABI recipient does not meet the nursing facility level of care criteria established in 907 KAR 1:022.

(10) Involuntary termination of a service to an ABI recipient by an ABI provider shall require:

(a) Simultaneous notice to BISU, the ABI recipient or legal representative and the case manager at least ten (10) days prior to the effective date of the action, which shall include:

1. A statement of the intended action;

2. The basis for the intended action;

3. The authority by which the action is taken; and

4. The ABI recipient's right to appeal the intended action through the provider's appeal or grievance process; and

(b) The case manager in conjunction with the provider to:

1. Provide the ABI recipient with the name, address and telephone number of each current ABI provider in the state;

2. Provide assistance to the ABI recipient in making contact with another ABI provider;

3. Arrange transportation for a requested visit to an ABI provider site;

4. Provide a copy of pertinent information to the ABI recipient or legal representative;

5. Ensure the health, safety and welfare of the ABI recipient until an appropriate placement is secured; and

6. Provide assistance to ensure a safe and effective service transition.

(11) Voluntary termination and loss of an ABI waiver program placement shall be initiated when an ABI recipient or legal representative submits a written notice of intent to discontinue services to the service provider and to DMHMR:

(a) No action to terminate services shall be initiated until thirty (30) calendar days from the date of the notice; and

(b) The ABI recipient or legal representative may reconsider and revoke the notice in writing during the thirty (30) calendar day period.

Section 4. Covered Services. (1) An ABI waiver service shall:

(a) Be prior-authorized by the department; and

(b) Be provided pursuant to the assessment of needs and plan of care.

(2) The following services shall be provided to an ABI recipient by an ABI waiver provider:

(a) Case management services, which shall:

1. Include initiation, coordination, implementation, and monitoring of the assessment, evaluation, intake and eligibility process;

2. Assist an ABI recipient in the identification, coordination, and facilitation of the interdisciplinary team and interdisciplinary team meetings;

3. Assist an ABI recipient and the interdisciplinary team to develop and update the assessment of needs and plan of care;

4. Include monitoring of the delivery of services and the effectiveness of the assessment of needs and plan of care which shall:

a. Be initially developed with the ABI recipient and legal representative if appointed prior to the level of care determination;

b. Be updated within the first thirty (30) days of service and as changes or recertification occurs; and

c. Include the ABI Assessment of Needs and Plan of Care Modification form - MAP-4098 be sent to the department or its designee prior to the implementation of the effective date the change occurs with the ABI recipient;

5. Include a transition plan that shall be developed within the first thirty (30) days of service and updated as changes or recertification occurs, and shall include:

a. The skills or service obtained from the ABI waiver program upon transition into the community; and

b. A listing of the community supports available upon the transition;

6. Assist an ABI recipient in obtaining a needed service outside those available by the ABI waiver;

7. Be provided by a case manager who:

a. (i) Is a registered nurse;

(ii) Is a licensed practical nurse; or

(iii) Is an individual who has a bachelor's or master's degree in a human services field who meets all applicable requirements of his or her particular field including a degree in psychology, sociology, social work, rehabilitation counseling, or occupational therapy;

b. Has completed case management training that is consistent with the curriculum that has been approved by DMH/MR prior to providing case management services;

c. Shall provide an ABI recipient and legal representative with a listing of each available ABI provider in the service area;

d. Shall maintain documentation signed by an ABI recipient or legal representative of informed choice of an ABI provider and of any change to the selection of an ABI provider and the reason for the change;

e. Shall provide a distribution of the crisis prevention and response plan, transition plan, assessment of needs and plan of care, and other documents within the first thirty (30) days of the service to the chosen ABI service provider and as information is updated;

f. Shall not provide case management to more than forty (40) individuals at a given time irrespective of the payor source;

g. Shall not be a provider of other direct services;

h. Shall provide twenty-four (24) hour telephone access to an ABI recipient and chosen ABI provider;

i. Shall work in conjunction with an ABI provider selected by an ABI recipient to develop a crisis prevention and response plan which shall be:

(i) Individual-specific; and

(ii) Updated as a change occurs and at each recertification;

j. Shall assist an ABI recipient in planning resource use and assuring protection of resources;

k. Shall conduct two (2) face-to-face meetings with an ABI recipient within a calendar month occurring at a covered service site no more than fourteen (14) days apart, with one (1) visit quarterly at the ABI recipient's residence (with one (1) occurring at a covered service site and one (1) at the ABI recipient's residence, to occur no more than fourteen (14) days apart);

l. Shall ensure twenty-four (24) hour availability of services;

m. Shall ensure that the ABI recipient's health, welfare and safety needs are met; and

n. Shall be supervised by an individual who is:

(i) A certified case manager, a certified disability management specialist, a certified rehabilitation registered nurse, or a certified life-care planner; and

(ii) Employed by or under contract with the case management provider agency; and

8. Be documented by a detailed staff note which shall include:

a. The ABI recipient's health, safety and welfare;

b. Progress toward outcomes identified in the approved assessment of needs and plan of care;

c. The date of the service;

d. Beginning and ending time; and

e. The signature, date of signature and title of the individual providing the service;

(b) Behavior programming which shall:

1. Be the systematic application of techniques and methods to influence or change a behavior in a desired way;

2. Include a functional analysis of the ABI recipient's behavior which shall include:

a. An evaluation of the impact of an ABI on cognition and behavior;

b. An analysis of potential communicative intent of the behavior;

ior;

c. The history of reinforcement for the behavior;

d. Critical variables that precede the behavior;

e. Effects of different situations on the behavior; and

f. A hypothesis regarding the motivation, purpose and factors which maintain the behavior;

3. Include the development of a behavioral support plan which shall:



- a. Be developed by the behavioral specialist;
- b. Be implemented by another ABI provider;
- c. Be revised as necessary;
- d. Define the techniques and procedures used;
- e. Include the hierarchy of behavior interventions ranging from the least to the most restrictive;
- f. Reflect the use of positive approaches; and
- g. Prohibit the use of corporal punishment, seclusion, verbal abuse, and any procedure which denies private communication, requisite sleep, shelter, bedding, food, drink, or use of a bathroom facility;
4. Include the provision of training to other ABI providers concerning implementation of the behavioral intervention plan;
5. Include the monitoring of an ABI recipient's progress which shall be accomplished through:
  - a. The analysis of data concerning the frequency, intensity, and duration of a behavior; and
  - b. The reports of an ABI provider involved in implementing the behavioral service plan;
6. Be provided by a behavior specialist who shall:
  - a. (i) Be a licensed psychologist;
  - (ii) Be a certified psychologist with autonomous functioning;
  - (iii) Be a psychological associate or certified psychologist;
  - (iv) Be a psychiatrist;
  - (v) Be a licensed clinical social worker;
  - (vi) Be a clinical nurse specialist with a master's degree in psychiatric nursing or rehabilitation nursing; or
  - (vii) Be an advanced registered nurse practitioner (ARNP); and
  - b. Have at least one (1) year of behavior specialist experience or provide documentation of completed coursework regarding learning and behavior principles and techniques; and
7. Be documented by a detailed staff note which shall include:
  - a. The date of the service;
  - b. The beginning and ending time; and
  - c. The signature, date and title of the behavioral specialist;
- (c) Companion services which shall:
  1. Include a nonmedical service, supervision or socialization;
  2. Include assisting with but not performing meal preparation, laundry and shopping;
  3. Include light housekeeping tasks which are incidental to the care and supervision of an ABI waiver service recipient;
  4. Include services provided according to the approved assessment of needs and plan of care which are therapeutic and not diversional in nature;
  5. Include accompanying and assisting an ABI recipient while utilizing transportation services;
  6. Include documentation by a detailed staff note which shall include:
    - a. Progress toward goal and objectives identified in the approved assessment of needs and plan of care;
    - b. The date of the service;
    - c. Beginning and ending time; and
    - d. The signature, date and title of the individual providing the service;
  7. Not be provided to an ABI recipient who receives community residential services; and
  8. Be provided by:
    - a. A home health agency licensed and operating in accordance with 902 KAR 20:081;
    - b. A community mental health center licensed and operating in accordance with 902 KAR 20:091;
    - c. A group home licensed and operating in accordance with 902 KAR 20:078;
    - d. A community habilitation program certified by the department; or
    - e. A staffed residence certified by the department;
  - (d) Community residential services which shall:
    1. Include twenty-four (24) hour supervision in:
      - a. A staffed residence that is certified by the department which shall not have greater than three (3) ABI recipients in a home rented or owned by the ABI provider; or
      - b. A group home which shall be licensed and operating in accordance with 902 KAR 20:078;
    2. Not include the cost of room and board;

3. Be available to an ABI recipient who:
  - a. Does not reside with a caregiver;
  - b. Is residing with a caregiver but demonstrates maladaptive behavior that places him or her at significant risk of injury or jeopardy if the caregiver is unable to effectively manage the behavior or the risk it presents, resulting in the need for removal from the home to a more structured setting; or
  - c. Demonstrates behavior that may result in potential legal problems if not ameliorated;
4. Utilize a modular home only if the:
  - a. Wheels are removed;
  - b. Home is anchored to a permanent foundation; and
  - c. Windows are of adequate size for an adult to use as an exit in the event of an emergency;
5. If provided via a modular home, have 180 days from the effective date of this administrative regulation to meet the modular home requirements;
6. Not utilize a motor home;
7. Provide a sleeping room which ensures that an ABI recipient:
  - a. Does not share a room with an individual of the opposite gender who is not the ABI recipient's spouse;
  - b. Does not share a room with an individual who presents a potential threat; and
  - c. Has a separate bed equipped with substantial springs, a clean and comfortable mattress and clean bed linens as required for the ABI recipient's health and comfort;
8. Provide assistance with daily living skills which shall include:
  - a. Ambulating;
  - b. Dressing;
  - c. Grooming;
  - d. Eating;
  - e. Toileting;
  - f. Bathing;
  - g. Meal planning, grocery shopping and preparation;
  - h. Laundry;
  - i. Budgeting and financial matters;
  - j. Home care and cleaning;
  - k. Social skills training;
  - l. Reduction or elimination of a maladaptive behavior;
  - m. Instruction in leisure skills; and
  - n. Instruction in self medication;
9. Provide service and training to obtain the outcomes of the ABI recipient as identified in the approved assessment of needs and plan of care;
10. Provide or arrange for transportation to services, activities and medical appointments as needed;
11. Include participation in medical appointments and follow-up care as directed by the medical staff; and
12. Be documented by a detailed staff note which shall include:
  - a. Progress toward goal and objectives identified in the approved assessment of needs and plan of care;
  - b. The date of the service;
  - c. Beginning and ending time; and
  - d. The signature, date and title of the individual providing the service;
- (e) Counseling services which:
  1. Shall be designed to help an ABI waiver service recipient resolve personal issues or interpersonal problems resulting from his or her ABI;
  2. Shall assist a family member in implementing an ABI waiver service recipient's approved assessment of needs and plan of care;
  3. In a severe case shall be provided as an adjunct to behavioral programming;
  4. Shall include substance abuse or chemical dependency treatment;
  5. Shall include building and maintaining healthy relationships;
  6. Shall develop social skills or the skills to cope with and adjust to the brain injury;
  7. Shall increase knowledge and awareness of the effects of an ABI;
  8. May include a group therapy service if provided to a maximum of twelve (12) ABI recipients no more than two (2) times a

week not to exceed ninety (90) minutes and be included in the recipient's approved assessment of needs and plan of care for:

- a. Substance abuse or chemical dependency treatment;
  - b. Building and maintaining healthy relationships;
  - c. Developing social skills;
  - d. Developing skills to cope with and adjust to a brain injury, including the use of cognitive remediation strategies consisting of the development of compensatory memory and problem solving strategies, and the management of impulsivity; and
  - e. Increasing knowledge and awareness of the effects of the acquired brain injury upon the ABI recipient's functioning and social interactions;
9. Shall be provided by:
- a. A psychiatrist;
  - b. A licensed psychologist;
  - c. A certified psychologist with autonomous functioning;
  - d. A psychological associate or certified psychologist;
  - e. A licensed clinical social worker;
  - f. A clinical nurse specialist with a master's degree in psychiatric

nursing;

- g. An advanced registered nurse practitioner (ARNP); or
  - h. A certified alcohol and drug counselor; and
10. Shall be documented by a detailed staff note which shall include:

- a. The date of the service;
- b. The beginning and ending time; and
- c. The signature, date of signature and title of the individual providing the service;

(f) Occupational therapy which shall be:

- 1. A physician-ordered evaluation of an ABI recipient's level of functioning by applying diagnostic and prognostic tests;

- 2. Physician-ordered services in a specified amount and duration to guide an ABI recipient in the use of therapeutic, creative, and self-care activities to assist the ABI recipient in obtaining the highest possible level of functioning;

- 3. Exclusive of maintenance or the prevention of regression;
- 4. Provided by an occupational therapist; and
- 5. Documented by a detailed staff note which shall include:
  - a. Progress toward goal and objectives identified in the approved assessment of needs and plan of care;

- b. The date of the service;
- c. Beginning and ending time; and
- d. The signature, date and title of the individual providing the service;

(g) Personal care services which shall:

- 1. Include the retraining of an ABI waiver service recipient in the performance of an activity of daily living by using repetitive, consistent and ongoing instruction and guidance;

- 2. Be provided by:
  - a. An adult day health care center licensed and operating in accordance with 902 KAR 20:066; or
  - b. A home health agency licensed and operating in accordance with 902 KAR 20:081;

- 3. Include the following activities of daily living:
  - a. Eating, bathing, dressing or personal hygiene;
  - b. Meal preparation; and
  - c. Housekeeping chores including bed-making, dusting and vacuuming;

- 4. Be documented by a detailed staff note which shall include:
  - a. Progress toward goal and objectives identified in the approved assessment of needs and plan of care;

- b. The date of the service;
- c. Beginning and ending time; and
- d. The signature, date and title of the individual providing the service; and

5. Not be provided to an ABI recipient who receives community residential services;

(h) A respite service which shall:

- 1. [a.] Be provided only to an ABI recipient unable to administer self-care;

- 2. [b.] Be provided in a variety of settings;
- 3. [c.] Be provided on a short-term basis due to absence or need for relief of an individual providing care to an ABI recipient;

- 4. [d.] Be limited to 168 hours in a six (6) month period;
- e. Not be provided to an ABI recipient who receives community residential services unless an individual's normal caregiver is unable to provide care due to a:

- a. Death in the family;
- b. Serious illness; or
- c. Hospitalization;

- 5. [e.] Not be provided to an ABI recipient who receives community residential services;

- 6. [f.] Not include the cost of room and board if provided in a nursing facility;

- 7. [g.] Be documented by a detailed staff note which shall include:

- a. [(#)] The date of the service;
- b. [(#)] The beginning and ending time; and
- c. [(#)] The signature, date of signature and title of the individual providing the service; and

- 8. [h.] Not be provided to an ABI recipient who receives community residential services;

- (i) Speech, hearing and language services which shall be:
  - 1. A physician-ordered evaluation of an ABI recipient with a speech, hearing or language disorder;

- 2. A physician-ordered rehabilitative service in a specified amount and duration to assist an ABI recipient with a speech and language disability in obtaining the highest possible level of functioning;

- 3. Exclusive of maintenance or the prevention of regression;
- 4. Provided by a speech therapist; and
- 5. Documented by a detailed staff note which shall include:

- a. Progress toward goals and objectives identified in the approved assessment of needs and plan of care;

- b. The date of the service;
- c. The beginning and ending time; and
- d. The signature, date and title of the individual providing the service;

- (j) Structured day program services which shall:

- 1. Be provided by:
  - a. An adult day health care center which is certified by the department and licensed and operating in accordance with 902 KAR 20:066; or

- b. An outpatient rehabilitation facility which is certified by the department and licensed and operating in accordance with 902 KAR 20:190;

- 2. Be to rehabilitate, retrain and reintegrate an individual into the community;

- 3. Not exceed a staffing ratio of five (5) ABI recipients per one (1) staff person, unless an ABI recipient requires individualized special service;

- 4. Include the following services:
  - a. Social skills training;
  - b. Sensory or motor development;
  - c. Reduction or elimination of a maladaptive behavior;
  - d. Prevocational; or
  - e. Teaching concepts and skills to promote independence

including:

- (i) Following instructions;
- (ii) Attendance and punctuality;
- (iii) Task completion;
- (iv) Budgeting and money management;
- (v) Problem solving; or
- (vi) Safety;

- 5. Be provided in a nonresidential setting;

- 6. Be developed in accordance with an ABI waiver service recipient's overall approved assessment of needs and plan of care;

- 7. Reflect the recommendations of an ABI waiver service recipient's interdisciplinary team;

- 8. Be appropriate:

- a. Given an ABI waiver service recipient's age, level of cognitive and behavioral function and interest;

- b. Given an ABI waiver service recipient's ability prior to and since his or her injury; and

- c. According to the approved assessment of needs and plan of care and be therapeutic in nature and not diversional;

- 9. Be coordinated with occupational, speech, or other rehabili-



tation therapy included in an ABI waiver service recipient's assessment of needs and plan of care;

10. Provide an ABI waiver service recipient with an organized framework within which to function in his or her daily activities;

11. Entail frequent assessments of an ABI waiver service recipient's progress and be appropriately revised as necessary; and

12. Be documented by a detailed staff note which shall include:

a. Progress toward goal and objectives identified in the approved assessment of needs and plan of care;

b. The date of the service;

c. The beginning and ending time; and

d. The signature, date and title of the individual providing the service;

(k) Supported employment which shall be:

1. Intensive, ongoing services for an ABI recipient to maintain paid employment in an environment in which an individual without a disability is employed;

2. Provided in a variety of settings;

3. Unavailable under a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 99-457 (34 C.F.R. Subtitle B, Chapter III), proof of which shall be documented in the ABI recipient's file;

4. Limited to forty (40) hours per week alone or in combination with structured day services;

5. An activity needed to sustain paid work by an ABI recipient receiving waiver services including supervision and training;

6. Exclusive of work performed directly for the supported employment provider; and

7. Documented by a time and attendance record with shall include:

a. The date of service;

b. The beginning and ending time; and

c. The signature, date and title of the individual providing the service;

(l) Specialized medical equipment and supplies which shall:

1. Include durable and nondurable medical equipment, devices, controls, appliances or ancillary supplies;

2. Enable an ABI recipient to increase his ability to perform daily living activities or to perceive, control or communicate with the environment;

3. Be ordered by a physician and submitted on a Request for Equipment MAP-95 form and include three (3) estimates for vision and hearing;

4. Include equipment necessary to the proper functioning of specialized items;

5. Not be available through the department's durable medical equipment, vision or hearing programs;

6. Not be necessary for life support;

7. Meet applicable standards of manufacture, design and installation; and

8. Exclude those items which are not of direct medical or remedial benefit to an ABI recipient; or

(m) Environmental modifications which shall:

1. Be provided in accordance with applicable state and local building codes;

2. Be provided to an ABI recipient if:

a. Ordered by a physician;

b. Prior-authorized by the department;

c. Submitted on a Request for Equipment MAP-95 form by a case manager;

d. Specified in an ABI recipient's approved assessment of needs and plan of care; and

e. Necessary to enable an ABI recipient to function with greater independence within his or her home and without the modification would require institutionalization;

3. Not include a vehicle modification or an electronic monitoring system; and

4. Be limited to no more than \$1000 for an ABI recipient in a six (6) month period.

[(2) "Department" means the Department for Medicaid Services or its designated agent.]

Section 5. [2-] Exclusions of the Acquired Brain Injury Waiver Program. A condition included in the following list shall not be con-

sidered an acquired brain injury requiring specialized rehabilitation:

(1) A stroke treatable in a nursing facility providing routine rehabilitation services;

(2) A spinal cord injury in which there is no known or obvious injury to the intracranial central nervous system;

(3) Progressive dementia or another mentally impairing condition of a chronic degenerative nature such as, senile dementia, organic brain disorder, Alzheimer's Disease, alcoholism or another addiction;

(4) A depression or a psychiatric disorder in which there is no known or obvious central nervous system damage;

(5) A birth defect;

(6) Mental retardation without an etiology to an acquired brain injury; or

(7) A condition which causes an individual to pose a level of danger or an aggression which is unable to be managed and treated in a community.

[Section 3. General Coverage Provisions. (1) The aggregate cost of an individual receiving ABI waiver services shall not exceed the aggregate cost of care for the individual that would otherwise be provided in a nursing facility.

(2) ABI waiver services shall be provided to an individual eligible for Medicaid who:

(a) Is twenty-one (21) to sixty-five (65) years of age with an impairment that involves cognition, behavior, or a physical function which necessitates supervised and supportive services;

(b) Meets the level of care criteria established in 907 KAR 1:022 for nursing facility services, including nursing facility services for brain injuries; and

(c) Meets the following conditions:

1. Has a primary diagnosis that indicates an acquired brain injury with structural, nondegenerative brain damage;

2. Is medically stable;

3. Exhibits cognitive, behavioral, motor or sensory damage with indications for rehabilitation and retraining potential; and

4. Has a rating of at least four (4) on the Rancho Los Amigos Level of Cognitive Function Scale, which is included as Appendix III to the Acquired Brain Injury Services and Reimbursement Program Manual.

(3) An individual shall not remain in the ABI Waiver Program for an indefinite period of time.

(4) The basis of an eligibility determination for participating in the ABI Waiver Program shall be:

(a) The presenting problem;

(b) The plan of care goals;

(c) The expected benefits of the admission;

(d) The expected outcome;

(e) The services required; and

(f) The cost-effectiveness of service delivery as an alternative to nursing facility and nursing facility brain injury services.

(5) ABI waiver services shall not be furnished to an individual if he or she is:

(a) An inpatient of a hospital, nursing facility, or an intermediate care facility for persons with mental retardation or a developmental disability; or

(b) Receiving services in another home and community-based waiver service program.

(6) The department shall make:

(a) An initial evaluation regarding whether an individual meets the nursing facility level of care criteria established in 907 KAR 1:022;

(b) A periodic nursing facility level of care reevaluation at least once every six (6) months and more frequently if necessary depending upon an individual's progress; and

(c) A determination of whether to admit an individual into the ABI Waiver Program.

Section 4. Recipient Participation Termination. (1) An individual with an approved plan of care who receives ABI waiver services may withdraw from the ABI Waiver Program at any time without cause.

(2) Continued coverage for an ABI waiver service recipient shall be terminated if the department determines that the individual

does not have the potential for reentry into the community without the continued availability of ABI waiver services.

Section 5. Conditions for Agency and Service Provider Participation. (1) An ABI waiver service provider shall:

- (a) Be enrolled as a Medicaid provider in accordance with 907 KAR 1:672;
- (b) Be a legally constituted entity in the Commonwealth of Kentucky and have documenting evidence of its operating authority, including:
  1. If it is a governmental entity, the administrative framework of the governmental department of which it is a component;
  2. If it is a private agency:
    - a. A charter or articles of incorporation;
    - b. A constitution; and
    - c. By-laws;
  - (c) Have an executive director who shall:
    1. Manage the agency and its affairs in accordance with written policies and procedures;
    2. Be responsible for the overall operation of the agency, including the recruitment and direction of staff and the control, utilization, and conservation of the agency's physical and financial assets; and
    3. Possess at least a bachelor's degree in administration or human services and at least one (1) year of experience working in an organization serving individuals with disabilities;
  - (d) Be subject to the financial sanctions as established in 907 KAR 1:674;
  - (e) Have a crisis prevention and response plan which shall:
    1. Address any potential crisis situation which may affect the health, welfare, or safety of an ABI waiver service recipient;
    2. Be developed by a case manager in cooperation with other relevant service providers within thirty (30) days of an ABI waiver service recipient's admission;
    3. Be disseminated by a case manager to all sites at which an ABI waiver service recipient will receive services; and
    4. Be readily accessible to all staff working with an ABI waiver service recipient;
  - (f) Comply with the following medication requirements:
    1. Staff administering medication shall possess appropriate training regarding the administration, storage, and cause and effect of medications;
    2. All medication administered shall be documented on a medication log and medication administration form, and properly disposed of if discontinued;
    3. All medication shall be stored in a locked container; and
    4. If necessary, medication shall accompany and be administered to an ABI waiver service recipient at a program site other than his or her residence;
  - (g) Establish and comply with written guidelines requiring the maintenance of sanitary conditions for an ABI waiver service recipient;
  - (h) Ensure that a residence operated by an ABI provider is equipped with the following:
    1. Operational smoke detectors strategically located; and
    2. A minimum of two (2) correctly charged, strategically located fire extinguishers in each service site, one (1) of which shall have a rating of 1A10BC and be capable of extinguishing a grease fire;
  - (i) Ensure that the nutritional needs of an ABI waiver service recipient are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as otherwise specified by a physician;
  - (j) Have written policies and procedures that comply with the conditions for participation established in the Acquired Brain Injury Services and Reimbursement Program Manual;
  - (k) Comply with applicable federal and state statutes and regulations relating to the provision of services under the Kentucky Medicaid Program;
  - (l) Meet the applicable certification requirements for providing ABI waiver services in accordance with 907 KAR 1:672, KRS 205.8477 and 42 C.F.R. 455 Subpart B;
  - (m) Comply with the conditions for participation established in the Acquired Brain Injury Services and Reimbursement Program Manual; and

(n) Prior to employing an individual to provide ABI waiver services, verify that all requirements of subsections (2) and (3) of this section have been met.

- (2) Professional direct service and paraprofessional staff shall:
  - (a) Have a high school diploma or GED;
  - (b) Be CPR certified;
  - (c) Not have a criminal record as defined in Section IV of the Acquired Brain Injury Services and Reimbursement Program Manual;
  - (d) Not have a history of perpetrating fraud, abuse, neglect, or exploitation;
  - (e) Unless the individual has at least 2000 hours of experience in serving individuals with a primary diagnosis of brain injury within the prior five (5) years, complete a sixteen (16) hour ABI orientation and training program;
  - (f) Complete six (6) hours of continuing education in brain injury annually;
  - (g) Be free of a communicable disease; and
  - (h) Meet other requirements pertinent to the service they shall provide as specified in the Acquired Brain Injury Services and Reimbursement Program Manual.
- (3) All professional direct service staff shall meet:
  - (a) The requirements established in subsection (2) of this section; and
  - (b) Appropriate licensing, certification, and degree requirements necessary to practice in the Commonwealth of Kentucky.
- (4) The following provider types shall check the nurse aid abuse and neglect registry, maintained by the Kentucky Board of Nursing, and any other applicable registry to determine if the individual the provider is considering hiring has a history of perpetrating abuse or neglect:
  - (a) Personal care services;
  - (b) Respite care services;
  - (c) Companion services;
  - (d) Structured day program services; and
  - (e) Community residential services.
- (5) A provider terminated from another Medicaid Program shall not be eligible for participation in the ABI Waiver Program in accordance with 907 KAR 1:672.]

Section 6. Incident Reporting Process. [Provider Incident Reporting Procedures.] (1) An incident shall be documented on an incident report form.

(2) There shall be three (3) classes of incidents as follows [Following are incident classifications and reporting requirements]:

- (a) A Class I incident which shall:
  1. Be minor in nature and not create a serious consequence;
  2. Not require an investigation by the provider agency;
  3. Be reported to the case manager within twenty-four (24) hours; [and]
  4. Be reported to the guardian as directed by the guardian; and
  5. Be retained on file at the provider and case manager agency [; as well as case management agency];
- (b) A Class II incident which shall:
  1. Be serious in nature; [including:
    - a. Personal injury or illness of an ABI waiver service recipient or ABI service provider staff person which requires emergency treatment or admission to a hospital or other treatment facility;
    - b. A medication error requiring medical attention;
    - c. A criminal act; or
    - d. Significant property damage;]
    2. Require an investigation which shall be initiated by the provider agency within twenty-four (24) hours of discovery and shall involve the case manager; and
    3. Be reported to the following by the provider agency:
      - a. The case manager within twenty-four (24) hours of discovery;
      - b. The guardian within twenty-four (24) hours of discovery followed by a complete written report of the incident investigation and follow-up within ten (10) calendar days of discovery; and
      - c. BISU [The Department for Mental Health and Mental Retardation's (DMHMR's), Division of Mental Health, Brain Injury Services Unit], within twenty-four (24) hours of discovery followed by a complete written report of the incident investigation and follow-up

within ten (10) calendar days of discovery; and

(c) A Class III incident which shall:

1. Be grave in nature; [including:

a. Death;

b. An event made controversial due to media exposure, even if unrelated to a specific incident; or

c. Suspected or actual abuse, neglect, or exploitation;]

2. Be immediately investigated by the provider agency, and the investigation shall involve the case manager; and

3. Be reported to the following by the provider agency:

a. The case manager within eight (8) hours of discovery;

b. DCBS, immediately upon discovery, if involving suspected abuse, neglect, or exploitation in accordance with KRS Chapter 209; [The Cabinet for Health Services, Department for Community Based Services within eight (8) hours of discovery;]

c. The guardian within eight (8) hours of discovery, followed by a complete written report of the incident investigation and follow-up within seven (7) calendar days of discovery; and

d. BISU, [The Department for Mental Health and Mental Retardation's (DMHMR's), Division of Mental Health, Brain Injury Services Unit] within eight (8) hours of discovery, followed by a complete written report of the incident investigation and follow-up within seven (7) calendar days of discovery. If an incident occurs after 5 p.m. EST on a weekday or occurs on a weekend or holiday, notification to BISU shall occur on the following business day.

Section 7. ABI Waiting List. (1) An individual between the age of twenty-one (21) to sixty-five (65) years of age applying for an ABI waiver service shall be placed on a statewide waiting list which shall be maintained by the department.

(2) In order to be placed on the ABI waiting list, an individual shall submit to the department a completed Acquired Brain Injury Waiver Services Program Application form - MAP-26[B], and an Acquired Brain Injury Waiver Services Program Physician Certification form - MAP-4099.

(3) The order of placement on the waiting list shall be determined by chronological date of receipt of the Acquired Brain Injury Waiver Services Program Physician Certification form - MAP-4099 and by category of need of the individual as follows:

(a) Emergency. An immediate service is indicated as determined by:

1. The individual currently is demonstrating behavior related to his acquired brain injury that places the recipient or caregiver or others at risk of significant harm; or

2. The individual is demonstrating behavior related to his acquired brain injury which has resulted in his arrest; or

(b) Nonemergency.

(4) In determining chronological status, the original date of receipt of the Acquired Brain Injury Waiver Services Program Application form - MAP-26[B] and the Acquired Brain Injury Waiver Services Program Physician Certification form - MAP-4099 shall be maintained and not change when an individual is moved from one (1) category of need to another.

(5) A written statement by a physician or other qualified mental health professional is required to support the validation of risk of significant harm to a recipient or caregiver.

(6) Written documentation by law enforcement or court personnel is required to support the validation of a history of arrest.

(7) If multiple applications are received on the same date, a lottery shall be held to determine placement on the waiting list within each category of need.

(8) A written notification of placement on the waiting list shall be mailed to the individual or his legal representative and case management provider if identified.

(9) Maintenance of the ABI waiting list shall occur as follows:

(a) The department shall, at a minimum, annually update the waiting list during the birth month of an individual;

(b) An individual or his legal representative and his case management provider shall be contacted in writing to verify the accuracy of the information on the waiting list and his continued desire to pursue placement in the ABI program; and

(c) The requested data shall be received by the department within thirty (30) days from the date on the written notice cited in subsection (8) of this section.

(10) Reassignment of category of need shall be completed based on the updated information and validation process.

(11) An individual or legal representative may submit a request for consideration of movement from one category of need to another at any time an individual's status changes.

(12) An individual shall be removed from the ABI waiting list if:

(a) After a documented attempt, the department is unable to locate the individual or his legal representative;

(b) The individual is deceased;

(c) The individual or his legal representative refuses the offer of ABI placement for services and does not request to be maintained on the waiting list; or

(d) 1. An ABI placement for services offer is refused by the individual or legal representative and he or she does not, without good cause, complete the Acquired Brain Injury Waiver Services Program Application form - MAP-26[B] application within sixty (60) days of the placement allocation date. The individual or his legal representative shall have the burden of providing documentation of good cause including:

a. A signed statement by the individual or the legal representative;

b. Copies of letters to providers; and

c. Copies of letters from providers.

2. Upon receipt of documentation of good cause, the department shall grant one (1) sixty (60) day extension in writing.

(13) If an individual is removed from the ABI waiting list, written notification shall be mailed by the department to the individual or his legal representative and the ABI case manager.

(14) The removal of an individual from the ABI waiting list shall not prevent the submittal of a new application at a later date.

(15) Potential funding allocated for services for an individual shall be based upon:

(a) The individual's category of need; and

(b) The individual's chronological date of placement on the waiting list. [Provider Participation Termination. A provider's participation shall be terminated by the provider or the department in accordance with 907 KAR 1:671.

Section 8. Covered Services. (1) Except as limited in Section 9 of this administrative regulation, the following shall be considered Medicaid-covered services:

(a) Case management services;

(b) Personal care services;

(c) Respite care;

(d) Companion services;

(e) Structured day program services;

(f) Supported employment services;

(g) Behavior programming services;

(h) Counseling services;

(i) Occupational therapy, speech, hearing, and language services;

(j) Specialized medical equipment and supplies;

(k) Environmental modification; and

(l) Community residential services.

(2) ABI Waiver Program services and services established in 42 U.S.C. 1396a, b, d, and n shall be available to an ABI waiver service recipient to prepare him or her to reside in the community without the need for continued ABI waiver services.

Section 9. Case Management Services. (1) A case management provider agency shall be supervised by an individual who is:

(a) A certified case manager (CCM), certified disability management specialist (CDMS), certified rehabilitation registered nurse (CRRN), or a certified life care planner; and

(b) Employed by or under contract with the case management provider agency.

(2) Case management services shall be provided by:

(a) A registered nurse;

(b) A licensed practical nurse; or

(c) An individual with a bachelor's or master's degree in a human services field who meets all applicable requirements of his or her particular field including an individual with a degree in:

1. Psychology;

2. Sociology;

3. Social work;
4. Special education;
5. Rehabilitation counseling;
6. Occupational therapy;
7. Physical therapy; or
8. Speech language pathology.

(3) Case management services shall include:

(a) Coordinating the assessment and reassessment process of an individual's condition to determine his or her eligibility, including continued eligibility, to receive ABI waiver services. An assessment or reassessment shall include the development of a transition plan which shall include:

1. An indication of an estimated discharge date, from the ABI Waiver Service Program, of the individual;
2. Estimated skills and supports the individual, upon discharge from the ABI Waiver Service Program, will possess as a result of receiving ABI waiver services;

3. A listing of ongoing formal and informal community supports anticipated to be available to the individual upon discharge from the ABI Waiver Service Program; and

4. A listing of additional resources necessary for the individual to function independently upon discharge from the ABI Waiver Service Program;

(b) Ensuring a potential ABI waiver service recipient exercises his or her freedom of choice regarding receiving services in an institution or via a home and community-based waiver program;

(c) Furnishing a potential ABI waiver service recipient and his or her legal representative written information describing services of all available providers within the individual's service area and ensuring that all questions related to his or her service options are addressed;

(d) Maintaining written documentation, signed by an ABI waiver service recipient or his or her legal representative, of a provider change including the reason for the change;

(e) Being responsible for the overall development of an ABI waiver service recipient's plan of care developed in conjunction with:

1. An interdisciplinary team; and

2. The ABI waiver service recipient and his or her family members, legal representative, or another individual chosen by the ABI waiver service recipient;

(f) Maintaining proper documentation related to an ABI waiver service recipient and ensuring that interdisciplinary team members receive copies of that documentation;

(g) Meeting with an ABI waiver service recipient in person every two (2) weeks with at least one (1) visit per quarter occurring in the ABI waiver service recipient's home or place of residence;

(h) Reviewing the provision of services to an ABI waiver service recipient and ensuring that services are delivered to the ABI waiver service recipient in accordance with his or her plan of care;

(i) Ongoing monitoring of an ABI waiver service recipient's progress;

(j) Submitting an ABI waiver service recipient's updated plan of care to the department every six (6) months; and

(k) Submitting monthly caseload reports to the department.

(4) A case manager's caseload, including all cases (not just ABI cases), shall not exceed forty (40) individuals.

(5) A case manager shall not be a provider of other direct services.

(6) A case manager provider agency shall supervise a case manager, ensure twenty four (24) hour availability of necessary ABI waiver services for an ABI waiver service recipient, and ensure that an ABI waiver service recipient's health, welfare, and safety needs are met.

Section 10. Personal Care Services. (1) Personal care services shall consist of the retraining of an ABI waiver service recipient in the performance of his or her activities of daily living by using repetitive, consistent, and ongoing instruction and guidance.

(2) Personal care services shall include the following activities of daily living:

- (a) Eating, bathing, dressing, or personal hygiene;

- (b) Meal preparation (excluding meal cost); or

- (c) Housekeeping chores such as bed making, dusting, and

vacuuming.

Section 11. Respite Care. Respite care shall be short-term care provided to an ABI waiver service recipient:

- (1) Unable to care for himself or herself;

- (2) Whose normal care giver is absent or needs relief from providing care; and

- (3) In his or her home, residence, setting approved by the provider agency, or a nursing facility.

Section 12. Companion Services. (1) Companion services shall include:

- (a) Nonmedical services, supervision, or socialization;

- (b) Assisting with but not performing meal preparation, laundry, or shopping; or

- (c) Light housekeeping tasks which are incidental to the care and supervision of an ABI waiver service recipient.

(2) Companion services shall be therapeutic, part of an ABI waiver service recipient's plan of care, and not diversional in nature.

(3) A provider of companion services shall, if necessary, accompany and assist an ABI waiver service recipient while the recipient utilizes assisted transportation services.

Section 13. Structured Day Program Services. (1) A structured day program service provider agency shall be:

- (a) Licensed as an adult day health care center in accordance with 902 KAR 20:066;

- (b) Licensed as an outpatient rehabilitation facility; or

- (c) Enrolled as a Medicaid provider in accordance with 907 KAR 1:672.

(2) A structured day program service provider's staffing ratio shall not exceed five (5) individuals per one (1) staff person.

(3) Structured day program services shall include:

- (a) Social skills training;

- (b) Sensory or motor development;

- (c) Reduction or elimination of a maladaptive behavior; or

- (d) Teaching concepts and skills to promote independence

including:

1. Following instructions;

2. Attendance and punctuality;

3. Task completion;

4. Problem solving;

5. Safety;

6. Appropriate social behavior; or

7. Money management.

(4) Structured day program services shall be provided in a nonresidential setting.

(5) A structured day program shall:

- (a) Be developed in accordance with an ABI waiver service recipient's overall plan of care;

- (b) Reflect the recommendations of an ABI waiver service recipient's interdisciplinary team;

- (c) Be appropriate given an ABI waiver service recipient's:

1. Age, level of cognitive and behavioral function and interest; and

2. Interest and aptitudes prior to and since his or her injury;

- (d) Be coordinated with physical, occupational, speech, or other rehabilitation therapy included in an ABI waiver service recipient's plan of care; and

- (e) Provide an ABI waiver service recipient with an organized framework within which to function in his or her daily activities.

(6) An ABI waiver service recipient's structured day program shall entail frequent assessments of his or her progress and be appropriately revised as necessary.

Section 14. Supported Employment Services. (1) A supported employment service provider agency shall be:

- (a) Licensed as an adult day health care center in accordance with 902 KAR 20:066;

- (b) Licensed as an outpatient rehabilitation facility; or

- (c) Enrolled as a Medicaid provider in accordance with 907 KAR 1:672.

(2) Supported employment services shall be provided by an

individual meeting the direct service requirements established in Section 5(2) of this administrative regulation or an individual with a bachelor's or master's degree in rehabilitation counseling.

(3) Supported employment services:

(a) Shall be paid employment for an ABI waiver service recipient who:

1. Is unlikely to obtain employment at or above the federal minimum wage; and

2. Needs intensive, ongoing support in order to perform in a work setting;

(b) May be provided in a variety of settings, but preferably in a work setting in which individuals without disabilities are employed;

(c) Shall be necessary in order for an ABI waiver service recipient to sustain paid work, including supervision and training; and

(d) Shall be reimbursed if unavailable to an ABI waiver service recipient via a program funded by either the Rehabilitation Act of 1973 (29 U.S.C. Chapter 16) or Pub.L. 94-142 (34 C.F.R. Subtitle B, Chapter III). Documentation that a supported employment service is unavailable, via the Rehabilitation Act of 1973 or Pub.L. 94-142, shall be maintained in an ABI waiver service recipient's record.

Section 15. Behavior Programming Services. (1) A behavior specialist who provides a behavior programming service shall:

(a) 1. Be a licensed psychologist;

2. Be a certified psychologist with autonomous functioning;

3. Be a psychological associate or certified psychologist;

4. Be a psychiatrist;

5. Be a licensed clinical social worker;

6. Be a clinical nurse specialist with a master's degree in psychiatric nursing or rehabilitation nursing; or

7. Be an advanced registered nurse practitioner (ARNP); and

(b) 1. Have at least one (1) year of behavior specialist experience; or

2. Provide documentation of completed coursework regarding learning and behavior principles and techniques.

(2) Behavior programming services shall focus on decreasing an individual's maladaptive behaviors which jeopardize his or her ability to function independently within a community.

(3) Behavior programming services may be provided in an individual's residence, in a community setting, or in an ABI service provider's facility.

(4) Behavior programming services shall include:

(a) Implementing planned systematic techniques and methods to:

1. Alter or influence a behavior in a desired way; or

2. Increase acceptable behavior and decrease maladaptive behavior;

(b) Monitoring an ABI waiver service recipient's progress;

(c) Revising, as necessary, an individual's behavior programming based on data analysis regarding the frequency, intensity, and duration of the individual's behaviors as well as based on observations;

(d) Ongoing training and supervision of direct service staff and care givers;

(e) A functional analysis, by a qualified behavioral specialist, which addresses:

1. A target behavior;

2. Frequency, intensity, and severity of a maladaptive behavior;

3. Antecedents and consequences of a maladaptive behavior;

4. Analysis of the possible communicative intent of a maladaptive behavior;

5. Reinforcement history regarding a maladaptive behavior;

6. Environments and social context in which a maladaptive behavior occurs;

7. Hypotheses regarding the motivation, purpose, and factors that maintain a maladaptive behavior;

8. An ABI waiver service recipient's medical, physical, cognitive, and emotional condition;

9. Knowledge and reaction of significant others involved;

10. Day-to-day changes in personal functioning;

11. A history of unsuccessful approaches to alter a maladaptive behavior; and

12. A justification for altering a target behavior;

(f) Developing in cooperation with an ABI waiver service recipient, implementing, and periodically reassessing a behavioral intervention plan, if necessary, which includes:

1. Identifying behavior that needs to be altered;

2. Establishing a justification for behavioral intervention;

3. Establishing procedures to help the ABI waiver service recipient attain goals while in the community;

4. Identifying past unsuccessful approaches utilized to try to alter the ABI waiver service recipient's behavior;

5. A justification for altering a target behavior;

6. Identifying methods to be used to alter a target behavior;

7. Identifying the frequency, intensity, or duration of a target behavior;

8. Establishing a positive behavior to replace a maladaptive behavior, as well as establishing specific methods for teaching a positive behavior;

9. Establishing data collection methods used to evaluate a behavior intervention plan's effectiveness;

10. Evaluating the behavior intervention plan's effectiveness;

11. Establishing specific reinforcements to be used;

12. Identifying an individual's rights, if appropriate, that need to be restricted;

13. Identifying risks of the behavior intervention plan, particularly in comparison to the risks of the maladaptive behavior;

14. Documenting an individual's, and his or her legal representative's, informed consent to the behavior intervention plan; and

15. If restricted procedures are to be utilized, documenting approval from a behavior intervention committee (BIC) and a human rights committee (HRC) of the behavior intervention plan.

(5) A behavior intervention plan shall incorporate the least restrictive, least aversive, and least intrusive procedures, as well as protect the dignity and rights of the individual receiving services.

(6) A behavior intervention plan shall be monitored on an ongoing basis by a behavioral specialist.

Section 16. Counseling Services. (1) A provider of counseling services shall be:

(a) A psychiatrist;

(b) A licensed psychologist;

(c) A certified psychologist with autonomous functioning;

(d) A psychological associate or certified psychologist;

(e) A licensed social worker;

(f) A clinical nurse specialist with a master's degree in psychiatric nursing;

(g) An advanced registered nurse practitioner (ARNP); or

(h) A certified alcohol and drug counselor.

(2) Counseling services shall be designed to help an ABI waiver service recipient resolve personal issues or interpersonal problems resulting from his or her acquired brain injury.

(3) To assist family members in implementing an ABI waiver service recipient's plan of care, counseling services may be provided to members of the ABI waiver service recipient's family.

(4) Group therapy may be a counseling service if included in an ABI waiver service recipient's plan of care.

(5) Counseling services may:

(a) Include substance abuse counseling; or

(b) In a severe case, be provided as an adjunct to behavioral programming.

Section 17. Occupational Therapy, Speech, Hearing, and Language Services. (1) A provider of occupational therapy or speech, hearing, and language services shall:

(a) Meet all applicable state licensure and certification requirements; and

(b) Be employed by or under contract with a participating ABI provider agency.

(2) Except for services over and above the Medicaid Program, occupational therapy or speech, hearing, and language services shall be provided and covered via the Medicaid Program.

(3) Occupational therapy or speech, hearing, and language services over and above the Medicaid Program shall be covered via the ABI Waiver Program.

**Section 18. Specialized Medical Equipment and Supplies.** (1) Specialized medical equipment and supplies shall be provided to an ABI waiver service recipient if:

- (a) Prior authorized by the department;
  - (b) Specified in the ABI waiver service recipient's plan of care; and
  - (c) Obtained from a Medicaid-certified pharmacy or Medicare- and Medicaid-certified medical equipment supplier; and
  - (d) Not covered via the Medicaid durable medical equipment program established in 907 KAR 1:479.
- (2) Prior authorization of specialized medical equipment and supplies shall be based on:
- (a) Medical necessity in accordance with 907 KAR 3:130; and
  - (b) The equipment's and supplies' necessity in regards to an ABI waiver service recipient's plan of care.
- (3) A case manager shall be responsible for:
- (a) Requesting prior authorization, using a MAP-95 form, for specialized medical equipment and supplies; and
  - (b) Arranging for and obtaining specialized medical equipment and supplies.
- (4) All specialized medical equipment and supplies shall meet applicable standards of manufacture, design, and installation.
- (5) Life support equipment, ancillary supplies, and related equipment shall not be covered by the ABI Waiver Program.

**Section 19. Environmental Modifications.** (1) An environmental modification shall be provided in accordance with applicable state and local building codes.

(2) An environmental modification shall be provided to an ABI waiver service recipient if:

- (a) Prior authorized by the department;
  - (b) Specified in the ABI waiver service recipient's plan of care;
  - (c) Obtained from a qualified contractor; and
  - (d) Necessary to ensure the ABI waiver service recipient's health, welfare, and safety;
2. It enables the ABI waiver service recipient to function with greater independence within his or her home and without which he or she would require institutionalization; or
3. It is necessary to accommodate medical equipment and supplies necessary for the ABI waiver service recipient's welfare.
- (3) A case manager shall be responsible for:
- (a) Requesting prior authorization, using a MAP-95 form, for an environmental modification; and
  - (b) Arranging for an environmental modification.
- (4) Vehicle modifications and electronic monitoring systems shall be excluded from environmental modification coverage in the ABI Waiver Program.

**Section 20. Community Residential Services.** (1) Community residential services:

- (a) Shall focus on retraining an ABI waiver service recipient in the performance of home care and home management tasks in accordance with the ABI waiver service recipient's plan of care;
  - (b) Shall be provided in a staffed residence or group home;
  - (c) Shall include:
    - 1. Supervision and oversight;
    - 2. Supportive services including:
      - a. Socialization as a part of an ABI waiver service recipient's plan of care;
      - b. Assistance with arranging meetings and appointments; or
      - c. Providing transportation;
    - 3. Activities of daily living training;
    - 4. Social skills training;
    - 5. Home care tasks training; or
    - 6. Home management tasks training; and
  - (d) May be provided up to twenty-four (24) hours per day.
- (2) An ABI waiver service recipient shall be eligible for community residential services if he or she:
- (a) Is not living with a caregiver;
  - (b) Is living with a caregiver but is exhibiting maladaptive behavior that places himself or herself or the caregiver at significant risk of injury or jeopardy; or
  - (c) Is exhibiting behavior which may result in legal problems if not ameliorated.

(3) For a staffed residence, a community residential service staffing ratio shall not exceed three (3) individuals per one (1) staff person.

**Section 21. Limits on Coverage.** (1) Respite services shall be limited to no more than 168 units in a six (6) month period. An exception to this period shall be granted by the department if the individual's primary caregiver's ability to provide care for the individual is compromised by:

- (a) A death in the family;
- (b) A serious illness; or
- (c) Hospitalization.

(2) An environmental modification shall be limited to being provided to the individual's home.

**Section 22. Prior Authorization of an ABI waiver service.** (1) The department shall prior authorize all of an individual's ABI services to ensure that:

- (a) Nursing facility level of care criteria and ABI service eligibility requirements are met;
- (b) Services are adequately specified in the ABI recipient's plan of care;
- (c) Services are medically necessary in accordance with 907 KAR 3:130, appropriate, and necessary to:
  - 1. Prepare the ABI recipient for reentry into a community where he or she can function without continued ABI services; and
  - 2. Prevent institutionalization;
- (d) Cost of the services shall not reasonably be expected to exceed the cost of the correspondingly appropriate level of institutional care; and
- (e) Services are adequate to meet the ABI recipient's needs.

(2) Prior authorization factors shall include an individual's home situation, caregiver support availability, and type and amount of services requested.

(3) Prior authorization procedures shall be as follows:

- (a) A case management agency shall request and obtain from the department, by telephone, a nursing facility level of care determination;
- (b) Upon receiving a written nursing facility level of care determination, a case manager shall submit to the department the following information in order to request a determination regarding an individual's medical eligibility for ABI services:
  - 1. A copy of an ABI Plan of Care form (MAP-4097);
  - 2. A completed and dated ABI Physician Certification form (MAP-4099) signed by an individual's attending physician recommending the individual for ABI services;
  - 3. A Medicaid Certification form (MAP-350); and
  - 4. The department's nursing facility level of care written determination;

(c) If the department's registered nurse or nurses reviewing an individual's documentation regarding ABI eligibility determine that an individual qualifies for ABI services, the department shall submit that determination to a case manager who shall then submit the following information to the department:

- 1. A completed ABI Plan of Care form (MAP-4097);
- 2. A copy of the department's nursing facility level of care approval;
- 3. A copy of the department's determination that an individual qualifies for ABI services;
- 4. A completed MAP-4099 form signed and dated by the individual's attending physician recommending the ABI Waiver Program;
- 5. The Kentucky Medicaid Certification form (MAP-350); and
- 6. A completed "Acquired Brain Injury Waiver Services Program Applicant/Recipient Memorandum of Understanding" (MAP-4096);

(d) Upon receipt of the documentation listed in paragraph (c) of this subsection, the department shall render a decision regarding the individual's eligibility for ABI services;

(e) If the department's registered nurse or nurses reviewing an individual's documentation regarding ABI eligibility determine that an individual is not likely to qualify for ABI services, the nurse or nurses shall refer the matter to a physician who shall:

- 1.a. Be a physical medicine and rehabilitation physician; or



b. Be a physician who is qualified by virtue of rehabilitation training and experience;

2. Have two (2) years of full-time experience in managing rehabilitation services in a brain injury program; and

3. Determine whether the individual qualifies for ABI services and notify the department of his or her determination;

(f) In accordance with paragraph (e) of this subsection, upon receiving a physician's determination that an individual qualifies for ABI services, the department shall follow the procedures established in paragraph (e) of this subsection; and

(g) Upon receiving a physician's determination that an individual does not qualify for ABI services, the department shall notify the individual and the case management agency which initiated the request for ABI services.

(4) An individual determined to not qualify for ABI services may appeal the determination in accordance with 907 KAR 1:560 and 907 KAR 1:563.

(5) A modification of an ABI recipient's plan of care shall be authorized if:

(a) The recipient's case management agency notifies the department of the modification by submitting:

1. An ABI plan of Care Modification form (MAP-4098);
  2. A Request for Equipment form (MAP-95), if applicable; and
  3. A brief explanation of the need for the modification; and
- (b) The department approves the modification.

**Section 23. Recipient Choice.** An individual eligible to receive acquired brain injury waiver services and his or her legal representative shall be given a choice to:

(1) Receive home and community based services or nursing facility services subject to the limitations established in Section 3 of this administrative regulation; and

(2) Select a participating ABI waiver provider from whom he or she wishes to receive a service.]

**Section 8. Appeal [24. Appeals] Rights.** (1) An appeal of a department decision [negative action taken by the department] regarding a Medicaid beneficiary based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision [negative action taken by the department] regarding Medicaid eligibility of an individual based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:560.

(3) An appeal of a department decision [negative action taken by the department] regarding a [Medicaid] provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.

**Section 9. [25.] Incorporation by Reference.** (1) The following material is incorporated by reference:

(a) "MAP-011, Acquired Brain Injury Assessment of Needs and Plan of Care, May 2003 edition";

(b) "MAP-24B, Acquired Brain Injury (ABI) Recipient's Admission or Discharge Department for Community Based Services (DCBS) Notification, May 2003 edition";

(c) "MAP-26, Acquired Brain Injury (ABI) Waiver Services Program Application, May 2003 edition";

(d) "MAP-95, Request for Equipment Form, September 2002 edition";

(e) "MAP-552K, Department for Community Based Services Notice of Availability for Long Term Care/Waiver Agency/Hospice, January 2001 edition";

(f) "MAP-4096, Acquired Brain Injury Waiver Services Program Memorandum of Understanding, May 2003 edition";

(g) "MAP-4098, Acquired Brain Injury Plan of Care Modification, May 2003 edition";

(h) "MAP-4099, Acquired Brain Injury (ABI) Waiver Services Program Physician Certification, May 2003 edition";

(i) "Incident Report, May 2003 edition";

(j) "MAP-4102, Freedom of Choice of Home and Community Based Waiver for Persons with Acquired Brain Injury (ABI) Service Providers, September 2002 edition"; and

(k) "MAP-350, Long Term Care Facilities and Home and

Community Based Program Certification Form, January 2000 edition". [Acquired Brain Injury Services and Reimbursement Program Manual, Department for Medicaid Services, "September 2004 edition", is incorporated by reference.]

(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.

MIKE ROBINSON, Commissioner

JAMES W. HOLSINGER, JR., Secretary

APPROVED BY AGENCY: December 30, 2003

FILED WITH LRC: January 14, 2004 at 11 a.m.

CONTACT PERSON: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax(502) 564-7573.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stuart Owen or Teresa Goodrich (564-6204)

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions relating to acquired brain injury (ABI) waiver services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions relating to ABI waiver services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the coverage provisions relating to ABI waiver services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently assists in the effective administration of the authorizing statutes by establishing the coverage provisions relating to ABI waiver 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 amendment to this administrative regulation establishes a waiting list for ABI waiver services to ensure that funding is allocated to individuals most in need of services, amends the incident reporting process, provider participation requirements, eligibility, enrollment and termination process, covered services, and clarifies the appeals process.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary in order to establish an ABI waiting list for the ABI waiver service program to ensure that funding is allocated to individuals most in need of services. Additionally it is necessary to amend the incident reporting process, provider participation requirements, eligibility, enrollment and termination process, covered services, as well as the appeals process for clarification purposes for providers and recipients.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation will assist in the effective administration of the authorizing statutes by establishing a waiting list for the ABI program to ensure that funding is allocated to individuals most in need of services. Additionally it conforms to the content of the authorizing statutes by amending the incident reporting process, provider participation requirements, eligibility, enrollment and termination process, covered services, and appeals process, as authorized by statute, for clarification purposes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by establishing a waiting list for the ABI program to ensure that funding is allocated to individuals most in need of services. Additionally it will assist by amending the incident reporting process, provider participation requirements, eligibility, enrollment and termination process, covered services, and appeals process, as authorized by statute, for clarification purposes.



(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: There are approximately 37 providers and 74 recipients currently participating in the ABI waiver service program; however, the Department for Medicaid Services (DMS) anticipates these numbers to increase as a result of the amendment to this 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: The implementation of the amendment to this administrative regulation will ensure that individuals most in need of ABI services receive them.

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

(a) Initially: The amendment to this administrative regulation is not expected to have a fiscal impact. The ABI program is capped at the recipient limit and the amendment does not alter the cap.

(b) On a continuing basis: The amendment to this administrative regulation is not expected to have a fiscal impact. The ABI program is capped at the recipient limit and the amendment does not alter the cap.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation requires no implementation or enforcement funding; however, it has a companion administrative regulation for which sources of revenue to be used for implementation and enforcement are federal funds authorized under Title XIX and Title XXI of the Social Security Act and state matching funds of general and agency fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary in this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding 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 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. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, JANUARY 15, 2004

BOARD OF NURSING  
(Amendment)

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

RELATES TO: KRS 314.142

STATUTORY AUTHORITY: KRS 314.131(1), 314.142(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.142(1) requires the board to promulgate administrative regulations to create a Sexual Assault Nurse Examiner Program. This administrative regulation establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner.

Section 1. Definition. "SANE course" means a formal, organized course of instruction that is designed to prepare a registered nurse to perform forensic evaluation of a sexual assault victim fourteen (14) years of age or older and to promote and preserve the victim's biological, psychological and social health.

Section 2. SANE Course Approval Application. On the form "Application for Initial or Continued SANE Course Approval", the applicant for approval of a SANE course shall submit evidence of:

(1) Nurse administrator of SANE course. A registered nurse, with current, active Kentucky licensure, a baccalaureate or higher degree in nursing, and experience in adult and nursing education shall be administratively responsible for assessment, planning, development, implementation, and evaluation of the SANE course.

(2) Faculty qualifications. The course shall be taught by multidisciplinary faculty with documented expertise in the subject matter. The name, title and credentials identifying the educational and professional qualifications for each instructor shall be provided.

(3) Course syllabus. The syllabus shall include:

(a) Course prerequisites, requirements and fees.

(b) Course outcomes. The outcomes shall provide statements of observable competencies, which when taken as a whole, present a clear description of the entry level behaviors to be achieved by the learner.

(c) Unit objectives. Individual unit objectives shall be stated in operational or behavioral terms with supportive content identified.

(d) Content. The content shall be described in detailed outline format with corresponding lesson plans and time frame. The content shall be related to, and consistent with, the unit objectives, and support achievement of expected course outcomes.

1. The SANE course shall include:

a. A minimum of forty (40) hours of didactic instruction pursuant to subparagraph 3 of this paragraph; and  
b. The clinical practice experience required by subparagraph 2 of this paragraph.

2. Clinical practice. The clinical portion of the course shall be a minimum of sixty (60) hours and shall include:

a. Supervised detailed genital inspection, speculum examination, visualization techniques and equipment - twenty six (26) hours.

b. Supervised mock sexual assault history taking and examination techniques with evaluation - ten (10) hours.

c. Observing relevant civil or criminal trials, [or] meeting with Commonwealth Attorney, or similar legal experience - sixteen (16) hours.

d. Meeting with rape crisis victim advocate or mental health professional with expertise in the treatment of sexual assault individuals - four (4) hours.

e. Meeting with members of law enforcement - four (4) hours.

3. The didactic portion of the course shall include instruction in the following topics related to forensic evaluation of individuals reporting sexual assault:

a. The role and responsibilities of a sexual assault nurse examiner, health care professional, rape crisis, law enforcement and judicial system personnel;

b. Application of the statewide medical protocol relating to the

forensic and medical examination of individuals reporting sexual assault pursuant to KRS 216B.400(2);

c. Principles and techniques of evidence identification, collection, evaluation, preservation and chain of custody;

d. Assessment of injuries, including injuries of forensic significance;

e. Physician consultation and referral;

f. Medicolegal documentation;

g. Victim's bill of rights, KRS 421.500 through 421.550;

h. Crisis intervention;

i. Dynamics of sexual assault;

j. Testifying in court;

k. Overview of the criminal justice system and related legal issues;

l. Available community resources including rape crisis centers;

m. Historical development of forensic nursing conceptual model;

n. Cultural diversity and special populations;

o. Ethics;

p. Genital anatomy, normal variances and development stages;

q. Health care implications and interventions; and

r. Developing policies and procedures.

(e) Teaching methods. The activities of both instructor and learner shall be specified in relation to content outline. These activities shall be congruent with stated course objectives and content, and reflect application of adult learning principles.

(f) Evaluation. There shall be clearly defined methods for evaluating the learner's achievement of course outcomes. There shall also be a process for annual course evaluation by students, providers, faculty, and administration.

(g) Instructional or reference materials. All required instructional materials and reference materials shall be identified.

(4) Completion requirements. Requirements for successful completion of the SANE course shall be clearly specified and shall include demonstration of clinical competency. A statement of policy regarding a candidate who fails to successfully complete the course shall be included.

Section 3. (1) Contact hour credit for continuing education. The SANE course shall be approved for contact hour credit which may be applied to licensure requirements.

(2) Approval period. Board approval for a SANE course shall be granted for a four (4) year period.

(3) Records shall be maintained for a period of five (5) years, including the following:

(a) Provider name, date and site of the course; and

(b) Participant roster, with a minimum of names, Social Security numbers and license numbers.

(4) A participant shall receive a certificate of completion that documents the following:

(a) Name of participant;

(b) Title of course, date and location;

(c) Provider's name; and

(d) Name and signature of authorized provider representative.

Section 4. Continued Board Approval of a SANE Course. (1) An application for continued approval of a SANE course shall be submitted at least three (3) months prior to the end of the current approval period.

(2) A SANE course syllabus shall be submitted with the "Application for Initial or Continued SANE Course Approval".

(3) Continued approval shall be based on the past approval period performance and compliance with board standards.

Section 5. The board may deny, revoke or suspend the approval status of a SANE course for cause.

Section 6. Appeal. If a SANE course administrator is dissatisfied with a board decision concerning approval and wishes a review of the decision, the following procedure shall be followed:

(1) A written request for the review shall be filed with the board within thirty (30) days after the date of notification of the board action which the SANE course administrator contests.

(2) The board, or its designee, shall conduct a review in which the SANE course administrator may appear in person and with counsel to present reasons why the board's decision should be set aside or modified.

Section 7. Requirements for Sexual Assault Nurse Examiner (SANE) Credential. (1) The applicant for the SANE credential shall:

(a) Hold a current, active registered nurse license in Kentucky;

(b) Have completed a board approved SANE educational course or a comparable course. The board or its designee shall evaluate the applicant's course to determine its course comparability. The board or its designee shall advise an applicant if the course is not comparable and specify what additional components shall be completed to allow the applicant to be credentialed;

(c) If the applicant has completed a comparable course, complete that portion of a SANE course of at least five (5) hours which shall include those topics specified in Section 2(3)(d)3a, b, c, g, k, and l of this administrative regulation if not included in the comparable course. The Office of the Attorney General may offer in cooperation with a board approved continuing education provider a course of at least five (5) hours to include those topics specified in this paragraph;

(d) Complete the "Application for SANE Credential"; and

(e) Pay the fee established in 201 KAR 20:240.

(2) Upon completion of the application process, the board shall issue the SANE credential for a biennial period of November 1 through October 31 of even numbered years.

Section 8. Renewal. (1) To renew the SANE credential for the next biennial period, each sexual assault nurse examiner shall complete at least five (5) contact hours of continuing education related to the role of the sexual assault nurse examiner within each continuing education earning period. A provider of a board approved SANE course may offer continuing education related to the role of the sexual assault nurse examiner.

(2) Upon completion of the required continuing education, completion of the "Application for Renewal of SANE Credential" and payment of the fee established in 201 KAR 20:240, the SANE credential shall be renewed at the same time the registered nurse license is renewed.

(3) The five (5) contact hours may count toward the required thirty (30) contact hours of continuing education for renewal of the registered nurse license.

(4) Failure to meet the five (5) contact hour continuing education requirement shall cause the SANE credential to lapse.

Section 9. Reinstatement. (1) If the SANE credential has lapsed for a period of less than two (2) consecutive registered nurse licensure periods, the individual may reinstate the credential by:

(a) Submitting the "Application for SANE Credential";

(b) Paying the fee established in 201 KAR 20:240; and

(c) Submitting evidence of earning the continuing education requirement for the number of registered nurse licensure periods since the SANE credential lapsed.

(2) If the SANE credential has lapsed for more than two (2) consecutive licensure periods, the nurse shall complete a SANE course prior to reinstatement.

Section 10. The board shall obtain input from the Sexual Assault Response Team Advisory Committee concerning any proposed amendment to this administrative regulation as follows:

(1) The board shall send a draft copy of any proposed amendment to the co-chairs of the Sexual Assault Response Team Advisory Committee prior to adoption by the board;

(2) The board shall request that comments on the proposed amendment be forwarded to the board's designated staff person within ninety (90) days; and

(3) At the conclusion of that time period or upon receipt of comments, whichever is sooner, the board, at its next regularly-scheduled meeting, shall consider the comments.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Initial or Continued SANE Course Approval" (6/97), Kentucky Board of Nursing;

(b) "Application for SANE Credential" 10/2002, Kentucky Board of Nursing; and

(c) "Application for Renewal of SANE Credential" 5/2002, Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:30 a.m. to 4:30 p.m.

M. SUSAN JONES, President

APPROVED BY AGENCY: December 12, 2003

FILED WITH LRC: January 6, 2004 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 24, 2004, 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 February 17, 2004, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 2, 2004. 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, phone (502) 329-7009, fax (502) 696-3938, email: nathan.goldman@ky.gov

#### REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets standards and credential requirements for Sexual Assault Nurse Examiners.

(b) The necessity of this administrative regulation: It is required to implement the statute.

(c) How this administrative regulation conforms to the content of the authorizing statute: By implementing the statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By implementing the 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: It will expand the type of legal experience needed for training to include observation of relevant civil trials, as well as criminal trials.

(b) The necessity of the amendment to this administrative regulation: Sexual assault nurse examiners have stated that this type of observation is relevant to their practice.

(c) How the amendment conforms to the content of the authorizing statute: The Board is authorized to set training requirements.

(d) How the amendment will assist in the effective administration of the statutes: By expanding the choices for training as related to legal experience.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Sexual assault nurse examiner trainees, 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: They will

have more opportunities to receive relevant training.

(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.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no cost to implement this change.

(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 fees or funding will not be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not.

(9) TIERING: Is tiering applied? Tiering is not being applied as it has no bearing on this change.

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Community Based Services**  
**Division of Policy Development**  
**(Amendment)**

**922 KAR 3:020. Grant services and eligibility [Technical eligibility].**

RELATES TO: KRS 194B.370, 195.105(1), 600.020(8), 620.170, 45 C.F.R. Part 74.23, 42 U.S.C. 1397, EO 2003-064 [199.420, 205.204, 209.030, 45 C.F.R. 96 Subparts A-I]

STATUTORY AUTHORITY: KRS 194B.050(1), 199.420(1), 209.035, 605.150, 620.180(1) [494.050]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. EO 2003-064 reorganizes the executive branch of government and establishes the Cabinet for Health and Family Services. The Cabinet for Health and Family Services [Families and Children] has the responsibility under the provisions of KRS Chapters 199, 209, 605, and 620 [194, 199, 208, and 209] to administer the social services programs [program] in accordance with Title XX-Block Grants to States for Social Services [Block Grant], 42 U.S.C. 1397. This administrative regulation establishes [sets forth technical] eligibility requirements for social services programs in accordance with Title XX of the Social Security Act, [in accordance with 45 C.F.R. 96 Subparts A through I for the Social Security Act Title XX—Social Services Block Grant.]

Section 1. Definitions. (1) "Home safety services" means services provided to:

(a) Prevent the removal or repeat maltreatment of a child; or

(b) Maintain an adult safely in the home or community.

(2) "In-kind contributions" means contributions which consists of volunteer services, donated supplies or property that are acceptable as a match requirement as specified in 45 C.F.R. Part 74.23.

(3) "Juvenile services" means services that include community treatment for a juvenile and juvenile's family, to rehabilitate the youth and help prevent the youth's future involvement with the juvenile or criminal justice system.

(4) "Residential treatment services" means services that provide a comprehensive treatment-oriented living experience, in a twenty-four (24) hour residential facility, for a juvenile offender committed to the cabinet, or to the Department of Juvenile Justice.

Section 2. Grant Services. (1) Subject to availability of the block grant and state funds, the Social Services Block Grant shall fund the following services to an eligible applicant as specified in Section 3 of this administrative regulation:

(a) Adult protection services of 922 KAR 5:070;

(b) Alternate care services of 922 KAR 5:100;

(c) Child protection services of 922 KAR 1:230 and 922 KAR 1:330;

(d) General adult services of 922 KAR 5:090;

(e) Home safety services;

(f) Juvenile services; or

(g) Residential treatment services.

(2) Subject to availability of the block grant and state funds, the Social Services Block Grant shall fund cabinet staff training in accordance with KRS 194B.370 and 195.105.

Section 3. Eligibility. (1) To be eligible for social services, a person shall be:

(a) A resident of Kentucky; or

(b) A juvenile, classified as a runaway.

(2) To be eligible for social services, a person shall need a social service program:

(a) Specified in Section 2 of this administrative regulation; and

(b) Identified by cabinet staff.

(3) A child, as described in KRS 600.020(8), shall be eligible for social services if:

(a) The child is committed to the cabinet, or the Department of Juvenile Justice by:

1. A court of competent jurisdiction; or

2. The parent's voluntary consent under KRS 620.170;

(b) A court of competent jurisdiction has ordered the cabinet to serve the child; or

(c) The cabinet receives information about a child that meets a criterion in:

1. Emergency protective services of 922 KAR 1:230; or

2. Child protective services of 922 KAR 1:330.

(4) An adult shall be eligible for social services if:

(a) A court of competent jurisdiction has ordered the cabinet to serve the adult; or

(b) The cabinet receives information about an adult that meets a criterion in:

1. Adult protective services of 922 KAR 5:070;

2. General adult services of 922 KAR 5:090; or

3. Alternate care services of 922 KAR 5:100.

(5) The cabinet shall provide home safety services to an individual or family that:

(a) Currently receives:

1. Child protective services;

2. General adult services; or

3. Adult protective services;

(b) Is unable to access similar services through other community resources; and

(c) Has a household income equal to or less than 200 percent of the federal poverty level, as determined annually by the United States Department of Health and Human Services.

Section 4. Assessment and Redetermination of Need. (1) An initial determination of need shall be completed within thirty (30) calendar days of the date of referral, report, or request for a social service from the cabinet, and redetermined:

(a) At least annually; or

(b) If there is a change in circumstances.

(2) A home safety service redetermination shall comply with Section 3(5) of this administrative regulation and be reviewed every six (6) months to determine need and income eligibility.

Section 5. Local Match. (1) In accordance with Title XX – Block Grants to States for Social Services, 42 U.S.C. 1397, the cabinet may contract with an individual or agency to provide a local match based on one (1) dollar for every three (3) dollars expended in federal funds.

(2) Local match may be cash, certified expenditures, or in-kind contributions.

Section 6. Annual Plan. A copy of the state's Title XX Social Services Block Grant annual plan may be obtained by a request in writing made to the Commissioner of the Department for Community Based Services, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621. [Residence. Except as otherwise provided by law or administrative regulations, to be

eligible to apply for social services a person shall be living in Kentucky or a juvenile classified as a runaway.

**Section 2. Eligibility.** (1) ~~Need.~~ To be eligible for social services a person shall have a need identified by the cabinet's social service staff that may be addressed by the services available.

(2) ~~Income limitations.~~ If income is a part of the eligibility criteria for social services, the maximum amount of gross income can not exceed eighty (80) percent of the 1982 median income for the Commonwealth of Kentucky adjusted by family size except for in-home services for the elderly. The percentage of the median income that constitutes eligibility may vary by service up to the maximum and is established and made public by the Department for Community-Based Services. The percentage of the median income that constitutes eligibility may be increased or decreased by the same ratio as the increase or decrease in federal funds available to Kentucky under the Social Services Block Grant. The amount of gross income for in-home services for the elderly shall not exceed \$15,601 annually for a one (1) person family and \$17,501 annually for a two (2) person family.

(3) ~~Special eligibility requirements.~~

(a) ~~For child day care, in addition to meeting the need and income status, applicants shall be served in the following priority order:~~

1. ~~Children on whom there has been a documented report of abuse, neglect, or exploitation and families with children for whom services are designed to prevent abuse, neglect, dependency or exploitation.~~

2. ~~Working parents or caregivers.~~

(b) ~~For in-home services for the elderly, in addition to meeting the need and income status, the applicant shall be sixty (60) years of age or older and have functional disabilities or chronic health and social problems as defined by program guidelines.~~

(c) ~~For maternity home care, in addition to meeting the need and income status, pregnant females shall be accepted according to the following priorities:~~

1. ~~Females under the age of eighteen (18) committed to the cabinet.~~

2. ~~Females, regardless of age, in need of protective services.~~

(4) ~~Committed or court ordered.~~ A child who is committed to the cabinet (or an agency recognized by the cabinet) by a court of competent jurisdiction, or voluntarily by the parents, or a child that a court of competent jurisdiction has ordered the cabinet to serve may be eligible for services.

**Section 3. Determination and Redetermination of Eligibility.** Initial eligibility shall be determined within thirty (30) calendar days of application and redetermined if there is a change in circumstances but not less often than annually.

**Section 4. Fees for Service.** Providers of services under contract to serve eligible Title XX clients may require clients to pay a fee for certain services based on sliding fee scales related to the client's income. Allowable fees for services are governed by 905 KAR 2:080, Child day care services and 923 KAR 4:180, Home care program for the elderly. Fees may vary by geographic area. A copy of the state's Title XX plan may be obtained by a request in writing made to the Commissioner of Community-Based Services, Cabinet for Families and Children, 275 East Main Street, Frankfort, Kentucky 40621. (9 Ky.R. 102; eff. 8-11-82; Am. 20 Ky.R. 2440; eff. 3-23-94; Recodified from 905 KAR 3:020, 10-30-98.)

DR. JAMES W. HOLSINGER JR., Secretary

APPROVED BY AGENCY: January 8, 2004

FILED WITH LRC: January 12, 2004 at 4 p.m.

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on February 23, 2004, at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by February 16, 2004 five work-days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person

who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 2, 2004. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

**CONTACT PERSON:** Becky Conner, Cabinet for Health and Family Services, Office of Legal Services, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, phone (502) 564-7900, fax (502) 564-9126.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Shirley Eldridge

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes eligibility requirements for recipients of social services programs administered by the Social Services Block Grant.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to administer the social services programs in accordance with Title XX of the Social Security Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapters 199, 209, 605, and 620 requires the cabinet to promulgate administrative regulations to establish standards for the social services programs under Title XX - Block Grants to States for Social Services, 42 U.S.C. 1397.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The cabinet has responsibility under the provisions of KRS Chapters 199, 209, 605 and 620 to administer social services programs in accordance with Title XX - Block Grants to States for Social Services.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this administrative regulation: The amendment will add definitions for clarification purposes; revise need requirements to control costs of programs; remove provisions related to day care since these requirements are contained in 922 KAR Chapter 2; include a provision for local match; and specify the types of social service programs provided by the Social Service Block Grant.

(b) The necessity of the amendment to this administrative regulation: Same as (2)(a).

(c) How the amendment conforms to the content of the authorizing statutes: KRS Chapters 199, 209, 605, and 620 requires the cabinet to promulgate administrative regulations establishing standards for the social services programs authorized in Title XX - Block Grants to States for Social Services, 42 U.S.C. 1397.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will clarify standards for the Social Services Block Grant, as the cabinet has the responsibility to administer social services programs in accordance with Title XX of the Social Security Act.

(3) List the type and number of individuals, business, organizations, or state and local governments affected by this administrative regulation: During Fiscal Year 2003, there were a total of 83,124 adults and 93,770 children that received essential services, funded in whole or in part by the Social Services Block Grant.

(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 modifying need requirements and specifying the social services programs available under the Social Services Block Grant, this amendment will set parameters in the provision of services made available to individuals, families and children of the commonwealth.

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

(a) Initially: This administrative regulation will not result in any additional costs to the program.

(b) On a continuing basis: Refer to (5)(a).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding is derived from 20% federal and 80% 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 amendment is budget neutral and designed to control costs. This regulation does not contain fees, and will not constitute an increase in funding.

(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.

(9) TIERING: Is tiering applied? Tiering was not applied since requirements are applied in a like manner for all recipients of social services programs provided by the block grant.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 C.F.R. Part 74.23 and 42 U.S.C. 1397.
2. State compliance standards. KRS 199.420
3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. Part 74.23 and 42 U.S.C. 1397.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. None

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, JANUARY 15, 2004

**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Department for Public Health**  
**Division of Epidemiology and Health Planning**  
**(New Administrative Regulation)**

**902 KAR 2:055. Immunization data reporting and exchange.**

RELATES TO: KRS 158.035, 211.090, 211.180, 214.032 to 214.036, 45 C.F.R. 164.510, 164.512(b)

STATUTORY AUTHORITY: KRS 158.037, 194A.050, 211.090(3), 214.034

NECESSITY, FUNCTION, AND CONFORMITY: EO 2003-64, effective December 16, 2003, reorganized the Cabinet for Health Services and placed the Department for Public Health and the Division of Epidemiology and Health Planning under the Health and Family Services Cabinet. KRS 211.180 requires the Cabinet for Health and Family Services to implement a statewide program for the detection, prevention and control of communicable diseases. KRS 214.034 requires public or private primary or secondary schools, day-care centers, certified family child-care homes, or any other licensed facility which cares for children to maintain a current immunization certificate on file for each child in attendance. KRS 158.035 prohibits a child from enrolling as a student in a public or private elementary or secondary school unless the child presents an immunization certificate issued by a licensed medical or osteopathic physician. KRS 158.037 requires the Cabinet for Health and Family Services to promulgate administrative regulations for public or private schools to report immunization results to local health departments. 45 C.F.R. 164.512(b), Federal Health Insurance Portability and Accountability Act (HIPAA), permits disclosure of protected health information (PHI) to local and state public agencies for public health activities and purposes without written authorization of the individual. Vaccinations to prevent disease are a core public health function. Reporting vaccination status constitutes infectious disease control and surveillance. This administrative regulation establishes requirements for reporting immunization results in schools, preschools, and day care facilities and permits recording and exchange of immunization data.

Section 1. Definitions. (1) "Public health entity" means health care providers, health insurers, public and private elementary and secondary schools, childcare facilities, preschool, public or private postsecondary educational institutions, and state and local health departments who are involved in the collection, recording, and exchange of immunization information for public health purposes. (2) "Public health interest" means participation in core public health functions such as surveillance, data collection, vaccination, vaccination certification, or prevention of communicable diseases for the protection of the public's health and safety.

Section 2. Immunization Reporting. (1) Day care centers, head start programs, kindergartens and public and private elementary and secondary schools shall submit to the local health department in their area immunization results on an annual immunization survey developed by the Cabinet for Health and Family Services.

(2) The annual day care survey shall include the number of:

- (a) Students in the grade surveyed;
- (b) Missing immunization records;
- (c) Religious exemptions;
- (d) Medical exemptions; and
- (e) Children who have received age-appropriate immunizations.

Section 3. Immunization Data Exchange. (1) A public health entity may record and exchange immunization data, without authorization from the patient or the patient's parent or guardian, if the patient is a minor, if the person requesting the data provides health related or educational services on behalf of the patient or has a public health interest.

(2) Immunization data may be recorded and exchanged elec-

tronically via an immunization registry.

(3) Immunization data that may be exchanged shall include:

- (a) Patient's name;
- (b) Patient's address;
- (c) Date of birth;
- (d) Gender;
- (e) Social Security number;
- (f) Medicaid number;
- (g) Birth state;
- (h) Birth County;
- (i) Mother's name;
- (j) Mother's maiden name;
- (k) Mother's date of birth;
- (l) Mother's social security number;
- (m) Father's name;
- (n) Father's date of birth;
- (o) Father's social security number;
- (p) Guardian's name;
- (q) Date vaccines were administered;
- (r) Vaccine type;
- (s) Vaccine lot number;
- (t) Vaccine manufacturer; and
- (u) Vaccine contraindications or adverse reaction indications.

(4) This section shall apply to immunization data regardless of when the immunizations occurred or the medium used to collect and exchange the data.

NICHOLAS Z. KAFOGLIS, M.D., Chairman

RICE C. LEACH, M.D., Commissioner

JAMES W. HOLSINGER, JR., M.D., Secretary

APPROVED BY AGENCY: January 12, 2004

FILED WITH LRC: January 12, 2004 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this regulation will be held February 23, 2004, at 9 a.m., in the Cabinet for Health and Family Services Auditorium, 1st floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by February 16, 2004. 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 the opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation until March 2, 2004. Send written notice of intent to attend the public hearing or written comments to: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

**REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT**

Contact person: Victor Negron, Manager, (502) 564-4478

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation 902 KAR 2:055 establishes requirements for reporting immunization results in schools, preschools and day care centers and permits public health entities to record and exchange immunization data.

(b) The necessity of this administrative regulation: KRS 158.037 requires the Cabinet for Health and Family Services to promulgate administrative regulations for public and private primary and secondary schools to report immunization results to local health departments. 45 C.F.R. 164.512(b), Federal Health Insurance Portability and Accountability ACT (HIPAA), permits disclosure of protected health information to local and state public health agencies for public health activities and purposes without written authorization from the individual.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 158.037. Requires public and primary and secondary schools to report immunization data results to local health departments. 45 C.F.R. 164.512(b) permits public health entities defined in this administrative regulation as health



care providers, health insurers, public and private elementary and secondary schools, childcare facilities, preschool, public or private post-secondary educational institutions, and state and local health departments who are involved in the collection, recording, and exchange of immunization data to record and share immunization data for public health purposes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will establish standards for reporting and exchange of immunization 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: 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 Kentucky public or private schools, preschool programs, day care centers, certified family child care homes, or other licensed facilities that care for children. This administrative regulation will impact approximately 250,000 children annually. Local health departments and other medical facilities that provide childhood immunizations will be affected. This administrative regulation may also impact public and private insurers.

(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 will require public and private primary and secondary schools, preschools and day care centers to report immunization results to local health departments on an annual basis. This administrative regulation will allow public health entities to record and exchange immunization data without written authorization from the patient and permit electronic transfer of immunization data via an immunization registry.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: There is no cost associated with the implementation of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund and Federal Immunization 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 regulations will not require an increase in funding.

(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 fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not applied because this administrative regulation applies to all primary and secondary schools, preschools, and day care facilities. This administrative regulation also applies to all public health entities that provide immunizations or have a public health interest in immunization data.

year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Local health departments annually receive immunization results from schools and regularly record and exchange immunization data. This administrative regulation will not increase current costs of doing business.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This administrative regulation will only affect local health departments.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to local health departments only.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
Minutes of January 13, 2004

The January meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, January 13, 2004, at 9:30 a.m. in Room 125 of the Capitol Annex. Senator Damon Thayer, Co-Chair, called the meeting to order, and the roll call was taken. The minutes of the December 10, 2003 meeting were approved.

**Present were:**

**Members:** Senator Damon Thayer, Co-Chair; Representative Tanya Pullin, Co-Chair, Senators Joey Pendleton, Richard Roeding, and Gary Tapp, Representatives Jimmie Lee and Jon David Reinhardt.

**LRC Staff:** Dave Nicholas, Donna Little, Donna Kemper, Sarah Amburgey, Karen Howard, Laura Milam, Ellen Steinberg, Emily Caudill, and Jenifer Harrison.

**Guests:** Richard Dobson, Brian Stephenson, Revenue Cabinet; Dr. John Breiwa, Connie Calvert, Board of Optometric Examiners; Gary Munsie, Board of Dentistry; Bea Collins, Beverly McCawley, Dena Moore, Carroll Roberts, Board of Hairdressers and Cosmetologist; Robert W. Fentross, Board of Licensure for Professional Engineers and Land Surveyors; Nathan Goldman, Board of Nursing; Nancy L. Black, Jim Grawe, Laura Strickland, Board of Licensure for Occupational Therapy; Ellen Benzing, Benjy Kinman, Scott Porter, Department of Fish and Wildlife Resources; Emily Harkenrider, Department for Environmental Protection; Steve Lynn, Thor Morrison, Department of Criminal Justice Training; Kevin Noland, Board of Education; Russell R. Coy II, Melea Kelch, D.J. Wasson, Department of Insurance; Frank Dempsey, Tim House, Simeon W. Parker, Michael S. Peck, Department of Housing Buildings and Construction; Mark Bell, Leah Brown, James Carreer, Marybeth Crouch, Linda Dailey, Duane Dringenburg, Charles Douglas, Lynne Flynn, David Hanna, Karyn Hascal, Alex Reese, Mike Robinson, Debbie Salleng, Jennifer Smith, Rosalie M. Summers, Ben Sweger, Anita Travis, Health and Family Services Cabinet; John Brazel, Kentucky Pharmacists Association; Melissa Bingham, Margaret Murrell, Jan Rowland, School owners; Dr. Lunele Leonard, Angela Richards, Professional/Education; Felecia Myers, The Academy of Cosmetology Arts; Mike Porter, Kentucky Dental Association

**The Administrative Regulation Review Subcommittee met on Tuesday, January 13, 2004, and submits this report:**

**Other Business:**

Co-Chair Thayer stated that he welcomed Representative Tonya Pullin to the Subcommittee. Pursuant to KRS Chapter 13A.020(1), the Speaker of the House had appointed her to replace Representative John Arnold. As Representative Arnold had served as the House Subcommittee Co-Chair, the House members needed to elect a new Co-Chair.

Representative Lee made a motion, seconded by Representative Reinhardt, to nominate Representative Pullin as the House Subcommittee Co-Chair. Representative Reinhardt made a motion, seconded by Representative Lee, to close the nominations. By acclamation, it was so ordered that Representative Pullin was the House Subcommittee Co-Chair.

Co-Chair Pullin stated that she thanked Representative Arnold for his great service to the Subcommittee. She would try hard to fill his very big shoes and looked forward to working with the Subcommittee.

Co-Chair Thayer stated that the Subcommittee had drafted a resolution honoring Representative Arnold for his service to the Subcommittee. After the resolution was read in its entirety, Co-Chair Pullin made a motion, seconded by Representative Reinhardt, that the resolution be adopted. Without objection, the resolution was adopted.

Co-Chair Thayer stated that he wanted to personally thank Representative Arnold both for his seven years of service to the Subcommittee and for how Representative Arnold treated him when he became Co-Chair last year after the passage of Senate Bill 221. Representative Arnold treated him as an equal and helped guide him as he embarked on his Co-Chair responsibilities. He was proud

that during their joint service as Co-Chairs, they did not run the Subcommittee as a bipartisan Subcommittee, but rather as a nonpartisan Subcommittee.

Representative Lee stated that he thanked Representative Arnold for the professional manner in which he had served as a Co-Chair of the Subcommittee. The Subcommittee appreciated his services, especially as the Subcommittee often confronted very difficult issues.

**The Subcommittee determined that the following administrative regulation did not comply with statutory requirements and was deficient:**

**201 KAR 12:115.** School requirements for esthetics course. Carroll Roberts, Administrator, and Dena Moore, Executive Secretary, represented the Board. Jan Rowland, School Owner; Felecia Myers, The Academy of Cosmetology Arts; Melissa Bingham, School Owner; Dr. Lunele Leonard; and Angela Richards appeared in opposition to this administrative regulation.

In response to questions by Representative Reinhardt, Ms. Roberts stated that this administrative regulation's space requirement for a treatment or facial room had been controversial. The Board had amended the requirement to reflect a compromise amount.

Ms. Rowland stated that she owned schools in Louisville, Florence, and Radcliff. She applauded the legislature for passing the esthetician bill which was helpful to the industry. However, she had grave concerns regarding this administrative regulation based on her thirty-five (35) years in the industry and from her extensive involvement in professional associations. As drafted, the administrative regulation was so restrictive that it would nullify any benefit that the bill would have accomplished. For example, esthetics schools could not afford to comply with its minimum space requirement for treatment and facial rooms or its requirement of one (1) bed for every two (2) students. Other states did not impose these regulatory requirements and they should be eliminated in Kentucky.

In response to questions by Senator Tapp, Ms. Roberts stated that the Board had established the minimum space requirement of forty-eight (48) square feet because students in states without it had complained of inadequate classroom space. Private school owners had requested a minimum of thirty-six (36) square feet.

In response to questions by Senator Tapp, Ms. Rowland stated that she and other school owners had requested the lesser space requirement because it mirrored the requirement for cosmetologists and because most states did not impose one at all.

Senator Tapp stated that he was concerned about the Subcommittee setting standards that were more restrictive than in other states and that would hamper the esthetics schools in providing their services.

In response to a question by Co-Chair Pullin, Ms. Rowland agreed that the esthetics schools served two types of clients, the esthetic student and the customer that was receiving the esthetic service. If either client felt the classroom space was insufficient, he or she could patronize another more spacious school.

In response to questions by Representative Reinhardt, Ms. Roberts stated that she was not familiar with the space requirements of surrounding states.

Ms. Myers stated that as a private school owner, she agreed with Ms. Rowland's statements regarding this administrative regulation. Her school received no state or federal funding and imposing these regulatory requirements on it would be excessive.

Senator Roeding stated that it was important for Kentucky administrative regulations not to be stricter than federal standards or those of surrounding states so that Kentucky businesses could be competitive. He did not want to force existing esthetics schools out of business or to deter new schools from developing.

Senator Tapp made a motion, seconded by Senator Roeding, to find 201 KAR 12:115 deficient. On a roll call vote, the administrative regulation was unanimously found deficient, with Co-Chair Thayer,

Senator Roeding, Senator Tapp, Senator Pendleton, Co-Chair Pullin, Representative Lee, and Representative Reinhardt voting in favor of the finding of deficiency.

**Administrative regulations reviewed by the Subcommittee:**

**Revenue Cabinet: Sales and Use Tax; Service and Professional Occupations**

**103 KAR 26:120.** Advertising agencies. Brian Stephenson, Tax Consultant, and Richard Dobson, Tax Consultant, represented the Cabinet.

In response to questions by Representative Lee, Mr. Dobson stated that this administrative regulation applied to purchases and sales of tangible personal property by advertising agencies.

In response to questions by Senator Roeding, Mr. Dobson stated that this administrative regulation did not impose any new taxes on advertising agencies. At the industry's request, the Cabinet developed these guidelines to better explain how the existing sales and use taxes applied to their purchases and sales.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and the STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend Sections 1 to 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**General Government Cabinet: Board of Optometric Examiners**

**201 KAR 5:100.** Expungement. Dr. John Breiwa, President, and Connie Calvert, Director, represented the Board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to amend Section 2 to delete provisions that repeated or summarized statutory provisions. Without objection, and with agreement of the agency, the amendments were approved.

**Board of Dentistry**

**201 KAR 8:490.** Expungement of records. Gary Munsie, Director, represented the Board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (2) to amend Section 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Board of Hairdressers and Cosmetologists**

**201 KAR 12:020.** Examination. Carroll Roberts, Administrator, and Dena Moore, Executive Secretary, represented the Board. In response to a question by Senator Roeding, Ms. Roberts stated that no fees were increased by this administrative regulation or 201 KAR 12:050, 055, and 070.

In response to questions by Senator Roeding, Ms. Roberts stated that the Board informed cosmetologists about 201 KAR 12:020 to 12:230 by notifying their professional organizations. The notice included instructions about how to access the proposed administrative regulations on the internet and about how to attend the public hearing. The Board felt the notice was sufficient even though they did not directly contact each cosmetologist because the public hearing was well attended by the industry.

In response to a question by Representative Reinhardt, Ms. Roberts stated that 201 KAR 12:020 to 12:230 did not increase any existing fees. However, to fulfill the Board's statutory obligation, they did create fees for the new esthetic license. Subcommittee staff repeated that these administrative regulations did establish new fees for estheticians pursuant to a statutory directive.

In response to questions by Senator Roeding, Ms. Roberts stated that the Board had increased the minimum number of school attendance days for esthetic and nail technician students to correspond to their increased number of study hours required by statute.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by

this administrative regulation; and (3) to amend Sections 1, 2, 3, 4, 6, and 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:025.** Additional study after failing examination. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; and (3) to amend Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:030.** License required. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; (3) to delete Section 1, which repeated the statute, in accordance with KRS 13A.120(2)(e); and (4) to amend Section 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:031.** Replacement of license - duplicate license. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; (3) to delete Section 1, which repeated the statute, in accordance with KRS 13A.120(2)(e); and (4) to amend Section 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:045.** Apprentice, nail technician, esthetician and instructor's licensing. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; and (3) to amend Sections 1 to 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:050.** Reciprocity for valid licensee. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; and (3) to amend Sections 1 to 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:055.** Instructor's license for out-of-state applicant. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; and (3) to amend Section 1 to specify correct statutory citations and further comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:060.** Inspections. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; and (3) to amend throughout to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement

of the agency, the amendments were approved.

**201 KAR 12:065.** Inspection of new, relocated and change of owner salons. A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to clearly state the subject matter of this administrative regulation; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (3) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; and (4) to amend throughout to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:070.** Requirements for salons of esthetic practices. In response to questions by Senator Roeding, Ms. Robertson stated that this administrative regulation had been amended so that it would not repeat the statutory requirement that certain services be performed only under the immediate supervision of a licensed physician. Subcommittee staff added that it would be inappropriate under KRS Chapter 13A for an administrative regulation to repeat a statute.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to clearly state the function served by this administrative regulation; (3) to amend Section 2 to: (a) delete language which repeated the statute, in accordance with KRS 13A.120(2)(e); and (b) create a standard for the "immediate supervision" requirement established in KRS 317B.015(1); and (4) to amend throughout to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:080.** Shops' and schools' public identification. In response to questions by Senator Roeding, Ms. Roberts stated that the industry had not objected to the identification requirements in this administrative regulation because the same requirements were already imposed on beauty salons by statute. If more than one type of salon were in business together, they only needed one sign based on their type of license.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to clearly state the subject matter of this administrative regulation; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (3) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:082.** School's course of instruction. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to clearly state the function served by this administrative regulation; and (3) to amend throughout to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:083.** Educational requirements. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to insert authorizing language and clearly state the function served by this administrative regulation; and (3) to amend throughout to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:088.** Esthetics course of instruction. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to clearly state the function served by this administrative regulation; and (3) to amend throughout to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the

agency, the amendments were approved.

**201 KAR 12:100.** Sanitation standards. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Sections 1, 2 and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:101.** Equipment sanitation. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION and CONFORMITY paragraph to clearly state the function served by this administrative regulation; (3) to amend Sections 3 and 4 to delete language which repeated the statute, in accordance with KRS 13A.120(2)(e); (4) to amend Section 12 to exclude those persons covered by the Americans With Disabilities Act from the requirement that treatment not be given to persons known to have infectious or contagious diseases; and (5) to amend Sections 5 through 17 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:120.** School faculty. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Sections 1, 5, 8, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:125.** Schools' student administrative regulations. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Sections 1-21 and 23-24 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:140.** School equipment. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Sections 1-4 and 8-9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:150.** School records. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend sections 1, 2, and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:200.** Requirements for continuing education for renewal of license. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend Sections 6, 10, and 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:210.** Requirements for continuing education; active and inactive license and temporary waiver of requirements. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the

necessity for and function served by this administrative regulation; and (3) to amend Section 5 to delete unnecessary language and to correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:220.** Esthetic fee requirements. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; (3) to amend Sections 1-4 to comply with the drafting and format requirements of KRS Chapter 13A; and (4) to amend Section 4 to eliminate the additional restoration fees added for each year since the expiration of the license. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 12:230.** Code of ethics. A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (2) to amend Sections 1-3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved. Board of Licensure for Professional Engineers and Land Surveyors

**201 KAR 18:099.** Repeal of 201 KAR 18:100. Robert Fentross, Assistant Director, represented the Board.

**201 KAR 18:220.** Administrative hearings. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Sections 1-3, 7, and 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**201 KAR 18:221.** Repeal of 201 KAR 18:131.

Board of Nursing

**201 KAR 20:070 & E.** Licensure by examination. Nathan Goldman, General Counsel, represented the Board.

In response to a question by Representative Reinhardt, Mr. Goldman stated that this administrative regulation was amended to permit Kentucky applicants to retake the licensure examination more quickly because the number of potential questions for the national examination had increased.

A motion was made and seconded to approve the following amendments: to amend Section 1 to delete language that was no longer necessary. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Occupational Therapy

**201 KAR 28:170.** Deep physical agent modalities. Nancy Black, Laura Strickland, and Jim Grawe, Assistant Attorney General, represented the Board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Section 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**Tourism Development Cabinet: Department of Fish and Wildlife Resources: Fish**

**301 KAR 1:115.** Propagation of aquatic organisms. Scott Porter, Assistant Attorney General, and Benjy Kinman represented the Department.

**301 KAR 1:201.** Fishing limits.

**301 KAR 1:210.** Free fishing days.

**301 KAR 1:220.** Reciprocal agreements regarding fishing.

**Justice Cabinet: Department of Criminal Justice Training: Kentucky Law Enforcement Council**

**503 KAR 1:140.** Peace officer professional standards. Steve Lynn, Associate General Counsel, and Thor Morrison, Executive Staff Assistant, represented the Council.

In response to a question by Senator Roeding, Mr. Lynn stated

that the vertical jump had been removed last year from the physical agility requirements for peace officers. The Council was amending this administrative regulation to require police agencies who administered their own physical agility testing to submit the results to the Council so that the Council could better monitor the effectiveness of the individual tests.

In response to a question from Co-Chair Pullin, Mr. Morrison stated that currently, the agencies who administered their own tests were required to maintain the results, but were not required to notify the Council of them.

**Education, Arts, and Humanities Cabinet: Kentucky Board of Education: Office of Education: Office of Learning Programs Development: Office of Learning Support Services**

**704 KAR 7:061.** Repeal of 704 KAR 7:060, Missing Kentucky School Children Program. Kevin Noland, General Counsel, represented the Board.

**Public Protection and Regulation Cabinet: Department of Insurance: Authorization of Insurers and General Requirements**

**806 KAR 3:041.** Repeal of 806 KAR 3:025, 806 KAR 3:040, 806 KAR 3:050, 806 KAR 3:060, 806 KAR 3:070, 806 KAR 3:090, and 806 KAR 3:120. D.J. Wasson, Program Manager, and Russell Coy, Counsel, represented the Department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to state that 806 KAR 3:070 was being repealed because this administrative regulation was not necessary in order to implement KRS 304.3-240. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing Buildings and Construction: Office of State Fire Marshal

**815 KAR 4:010.** Annual inspection of passenger elevators. Frank Dempsey, General Counsel, and Dennis Langford, Deputy Director, represented the Department.

Kentucky Building Code

**815 KAR 7:120.** Kentucky Building Code/2002.

Plumbing

**815 KAR 20:020.** Parts or materials list.

**815 KAR 20:110.** Traps and cleanouts.

**Cabinet for Health Services: Department for Public Health: Health Services and Facilities**

**902 KAR 20:058.** Operation and services; primary care center. Alex Reese, Office of Inspector General, represented the Department.

In response to a question by Senator Roeding, Mr. Reese stated that this administrative regulation did not change existing staffing requirements for primary care centers and extensions. It merely referred to a statute passed by the 2003 General Assembly which provided leeway for school-based primary care extensions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3 to 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Food and Cosmetics

**902 KAR 45:065 & E.** Tattooing. Anita Travis, Manager, represented the Department.

A motion was made and seconded to approve the following amendments: (1) to delete Section 7(2) requiring parental presence for the tattooing of a minor as it conflicted with KRS 211.760(3)(d) requiring written notarized consent by the parent or guardian; (2) to delete Section 14 requiring a plan review and approval by the local health department for future construction or remodeling of a tattoo studio; (3) to amend Sections 2 and 4 to specify that tattoo artist registrations and studio certifications shall expire one (1) year from the date of issuance in accordance with KRS 211.760(2); and (4) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1-16 and 18-20 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Medicaid Services

**907 KAR 1:006 & E.** Coverage of and payment for services for persons eligible for benefits under both Title XIX and Title XVIII. Mike Robinson, Commissioner, represented the Department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**907 KAR 1:023 & E.** Review and approval of selected therapies as ancillary services in nursing facilities. A motion was made and seconded to approve the following amendments: to amend Sections 3 and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**907 KAR 1:026 & E.** Dental services. Mike Porter, Kentucky Dental Association, appeared in favor of this administrative regulation.

In response to a question by Senator Roeding, Commissioner Robinson stated that to accommodate the concerns of the Technical Advisory Committee, the Department had amended the prior authorization requirements for periodontal scaling. Prior authorization was now required for children and adults. Additionally, so that repeat office visits would not be necessary, the authorization was required only before the submission of the payment claim rather than before the scaling was performed.

Mr. Porter stated that the Association was in favor of the periodontal scaling amendments.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend Sections 1, 2, 4, 12, 14, 15, and 17 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to delete Section 18 which established a special effective date that was not necessary under KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**907 KAR 1:045 & E.** Payments for community mental health center services.

**907 KAR 1:604 & E.** Recipient cost-sharing. A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; and (2) to amend Sections 2, 4, 5, 6, 7, and 10 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**907 KAR 1:626 & E.** Reimbursement of dental services. A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend Sections 1 and 3 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to delete Section 7 which established a special effective date that was not necessary under KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Mental Health and Mental Retardation Services: Substance Abuse

**908 KAR 1:340 & E.** Narcotic treatment programs. Karyn Hascal, Acting Director, and Mac Bell, Program Director, represented the Department.

In response to a question by Representative Reinhardt, Ms. Hascal stated that this administrative regulation was amended to comply with legislation from the 2003 General Assembly requiring a pharmacist or physician to be present to set up take home medications.

A motion was made and seconded to approve the following amendments: (1) to amend throughout to update references to 21 C.F.R. Parts 291 and 1301 with references to 42 C.F.R. Part 8; (2) to amend throughout to update references to FDA with references to CSAT (Center for Substance Abuse Treatment); and (3) to amend Sections 1, 4-10, 12, 15, 16-20, 22, and 23 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The Subcommittee and the promulgating administrative agencies agreed to defer consideration of the following administrative regulations to the next meeting of the Subcommittee:

Kentucky Higher Education Assistance Authority: KHEAA Grant Programs

11 KAR 5:034. CAP grant student eligibility.

11 KAR 5:130. Student application.

Teacher Scholarship Loan Program

11 KAR 8:030. Teacher scholarships.

Early Childhood Development Scholarship Program

11 KAR 16:010. Early Childhood Development Scholarship Program applicant selection process.

Robert C. Byrd Honors Scholarship Program

11 KAR 18:010. Robert C. Byrd Honors Scholarship Program.

Department of Treasury: State Treasury

20 KAR 1:040. Unclaimed properties; claims.

20 KAR 1:080. Reports to be filed by holders of unclaimed property.

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

20 KAR 1:100. Multiple claims on the Unclaimed Property Fund.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Water Quality

401 KAR 5:002. Definitions for 401 KAR Chapter 5.

401 KAR 5:005. Permits to construct, modify, or operate a facility.

401 KAR 5:026. Designation of uses of surface waters.

401 KAR 5:029. General provisions.

401 KAR 5:030. Antidegradation policy implementation methodology.

401 KAR 5:031. Surface water standards.

Department for Surface Mining Reclamation and Enforcement: General Provisions

405 KAR 7:001. Definitions for 405 KAR Chapter 7.

Permits

405 KAR 8:001. Definitions for 405 KAR Chapter 8.

Bond and Insurance Requirements

405 KAR 10:001. Definitions for 405 KAR Chapter 10.

Inspection and Enforcement

405 KAR 12:001. Definitions for 405 KAR Chapter 12.

Performance Standards for Surface Mining Activities

405 KAR 16:001. Definitions for 405 KAR Chapter 16.

Performance Standards for Underground Mining Activities

405 KAR 18:001. Definitions for 405 KAR Chapter 18.

Special Performance Standards

405 KAR 20:001. Definitions for 405 KAR Chapter 20.

Areas Unsuitable for Mining

405 KAR 24:001. Definitions for 405 KAR Chapter 24.

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:018. Special overweight or overdimensional permits.

601 KAR 9:085. Procedures for becoming a certified motor vehicle inspector.

601 KAR 9:135. Apportioned registration.

Department of Highways: Traffic

603 KAR 5:066. Weight (mass) limits for trucks.

603 KAR 5:070. Motor vehicle dimension limits.

Public Protection and Regulation Cabinet: Department of Housing Buildings and Construction: Electrical Inspectors

815 KAR 35:040 & E. Licensing of electrical contractors, electricians, and master electricians.

Cabinet for Families and Children: Department for Community Based Services: Protection and Permanency Child Welfare

922 KAR 1:320. Services appeals.

922 KAR 1:330. Child protective services.

922 KAR 1:480. Appeal of child abuse and neglect investigative findings.

The Subcommittee adjourned at 10:40 a.m. until February 13, 2004.



OTHER COMMITTEE REPORTS

**COMPILER'S NOTE:** In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

**SENATE COMMITTEE ON APPROPRIATIONS AND REVENUE**

Meeting of January 13, 2004

The following administrative regulations were available for consideration by the Senate Committee on Appropriations and Revenue during its meeting of January 13, 2004, having been referred to the Committee on December 24, 2003, pursuant to KRS 13A.290(6):

103 KAR 26:110  
907 KAR 1:145 & E

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 13, 2004 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**HOUSE COMMITTEE ON APPROPRIATIONS AND REVENUE**

Meeting of January 13, 2004

The following administrative regulations were available for consideration by the House Committee on Appropriations and Revenue during its meeting of January 13, 2004, having been referred to the Committee on December 24, 2003, pursuant to KRS 13A.290(6):

103 KAR 26:110  
907 KAR 1:145 & E

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 13, 2004 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.



## CUMULATIVE SUPPLEMENT

### Locator Index - Effective Dates.....H - 2

The Locator Index lists all administrative regulations published in VOLUME 30 of the Administrative Register from July, 2003 through June, 2004. 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 29 are those administrative regulations that were originally published in VOLUME 29 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2003 bound Volumes were published.

### KRS Index .....H - 14

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 30 of the Administrative Register.

### Subject Index .....H - 24

The Subject Index is a general index of administrative regulations published in VOLUME 30 of the Administrative Register, and is mainly broken down by agency.



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	29 Ky.R. Page No.	Effective Date	Regulation Number	29 Ky.R. Page No.	Effective Date
<b>VOLUME 29</b>					
The administrative regulations listed under VOLUME 29 are those administrative regulations that were originally published in Volume 29 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2003 bound Volumes were published.					
<b>EMERGENCY ADMINISTRATIVE REGULATIONS:</b> (Emergency regulations expire 170 days from publication; or 170 days from publication plus number of days of requested extension; or on replacement or repeal, whichever occurs first)			900 KAR 6:050E	2012	1-8-03
			Replaced		7-16-03
			902 KAR 17:041E	1513	11-12-02
			Replaced	2377	6-16-03
			902 KAR 20:014E	2241	2-13-03
			Expired		8-18-03
16 KAR 1:040E	2413	1-21-03	902 KAR 45:065E	2616	4-14-03
Expired		8-18-03	Withdrawn		10-17-03
32 KAR 2:220E	2605	4-4-03	907 KAR 1:006E	2622	3-24-03
Replaced	2930	8-13-03	Expired		10-18-03
105 KAR 1:150E	1967	1-2-03	907 KAR 1:011E	2624	3-24-03
Replaced		7-17-03	Replaced	613	8-20-03
105 KAR 1:370E	1744	11-27-02	907 KAR 1:013E	2629	4-1-03
Replaced	2865	6-16-03	Expired		10-18-03
201 KAR 40:040E	1970	12-17-02	907 KAR 1:015E	2245	2-11-03
Expired		7-21-03	Withdrawn		8-4-03
201 KAR 40:050E	1971	12-17-02	907 KAR 1:018E	2641	4-1-03
Expired		7-21-03	Replaced	617	8-20-03
201 KAR 40:060E	1972	12-17-02	907 KAR 1:022E	2644	4-4-03
Expired		7-21-03	Expired		10-18-03
201 KAR 40:070E	1973	12-17-02	907 KAR 1:065E	2022	12-30-02
Expired		7-21-03	Replaced	2892	6-16-03
201 KAR 40:080E	1975	12-17-02	907 KAR 1:145E	1748	11-25-02
Expired		7-21-03	Withdrawn		7-22-03
201 KAR 40:090E	1977	12-17-02	907 KAR 1:155E	2247	1-17-03
Expired		7-21-03	Withdrawn		7-1-03
201 KAR 40:100E	2848	5-12-03	907 KAR 1:160E	2853	5-1-03
Replaced	585	9-8-03	Replaced		10-31-03
301 KAR 2:083E	2849	5-13-03	907 KAR 1:170E	2857	5-1-03
Replaced		(See 30 Ky.R.)	Withdrawn		7-1-03
301 KAR 2:095E	2441	2-20-03	907 KAR 1:479E	2029	1-8-03
302 KAR 39:010E	2606	4-3-03	Replaced		7-16-03
Replaced	586	9-8-03	907 KAR 1:520E	2034	12-30-02
405 KAR 5:001E	1979	12-13-02	Expired		7-21-03
Expired		7-21-03	907 KAR 1:530E	2035	12-30-02
405 KAR 5:030E	1982	12-13-02	Expired		7-21-03
Expired		7-21-03	907 KAR 1:604E	2860	4-24-03
405 KAR 5:035E	1989	12-13-02	Withdrawn		10-31-03
Expired		7-21-03	907 KAR 1:650E	2650	3-24-03
405 KAR 5:038E	1991	12-13-02	Withdrawn		8-29-03
Expired		7-21-03	907 KAR 1:805E	2653	3-19-03
405 KAR 5:045E	1994	12-13-02	Replaced	181	8-20-03
Expired		7-21-03	907 KAR 3:030E	2036	12-17-02
405 KAR 5:053E	1996	12-13-02	Withdrawn		7-1-03
Expired		7-21-03	907 KAR 3:090E	2045	12-17-02
405 KAR 5:060E	1998	12-13-02	Expired		7-21-03
Expired		7-21-03	907 KAR 3:110E	2250	2-11-03
405 KAR 5:075E	2003	12-13-02	Withdrawn		7-1-03
Expired		7-21-03	911 KAR 2:120E	2052	1-3-03
405 KAR 5:080E	2005	12-13-02	Expired		7-21-03
Expired		7-21-03	911 KAR 2:130E	2058	12-30-02
503 KAR 1:110E	1744	12-9-02	Expired		7-21-03
Replaced	2883	6-16-03	911 KAR 2:200E	2062	1-10-03
803 KAR 25:010E	2607	4-14-03	Expired		7-21-03
Expired		10-18-03	921 KAR 2:015E	2069	12-27-02
803 KAR 25:125E	2852	5-13-03	Replaced	2804	7-16-03
Replaced		10-31-03			
810 KAR 1:027E	2442	2-24-03			
Expired		9-18-03			



**LOCATOR INDEX - EFFECTIVE DATES**

<b>Regulation Number</b>	<b>29 Ky.R. Page No.</b>	<b>Effective Date</b>	<b>Regulation Number</b>	<b>29 Ky.R. Page No.</b>	<b>Effective Date</b>
<b>ORDINARY ADMINISTRATIVE REGULATIONS:</b>			301 KAR 2:075		
			Amended	2958	(See Volume 30)
13 KAR 2:090			301 KAR 2:095	3001	8-13-03
Amended	2717	(See Volume 30)	301 KAR 2:111		
16 KAR 2:020			Amended	2960	8-13-03
Amended	2913	(See Volume 30)	301 KAR 2:179		
16 KAR 2:190	2996	8-13-03	Amended	2961	8-13-03
16 KAR 5:010			301 KAR 2:240		
Amended	2916	(See Volume 30)	Amended	2963	8-13-03
16 KAR 6:020			301 KAR 2:251		
Amended	2924	(See Volume 30)	Amended	2964	8-13-03
16 KAR 8:040			301 KAR 3:022		
Amended	2927	(See Volume 30)	Amended	2966	7-24-03
30 KAR 3:010			Withdrawn		
Amended	2720	(See Volume 30)	307 KAR 2:010		
32 KAR 1:020			Amended	2968	(See Volume 30)
Amended	2929	(See Volume 30)	307 KAR 6:010		
32 KAR 2:220			Amended	2730	(See Volume 30)
Amended	2930	8-13-03	401 KAR 52:080		
102 KAR 1:030			Amended	2970	(See Volume 30)
Amended	2931	(See Volume 30)	401 KAR 57:002		
102 KAR 1:036			Amended	2973	(See Volume 30)
Amended	2932	(See Volume 30)	401 KAR 60:005		
102 KAR 1:038			Amended	2975	(See Volume 30)
Amended	2934	(See Volume 30)	401 KAR 63:002		
102 KAR 1:057			Amended	2979	(See Volume 30)
Amended	2935	(See Volume 30)	401 KAR 63:105		
102 KAR 1:070			Amended	1091	(See Volume 30)
Amended	2936	(See Volume 30)	405 KAR 5:001		
102 KAR 1:100			Amended	2731	(See Volume 30)
Amended	2937	(See Volume 30)	405 KAR 5:030		
102 KAR 1:110			Amended	2735	(See Volume 30)
Amended	2938	(See Volume 30)	405 KAR 5:035		
102 KAR 1:121	2997	8-13-03	Amended	2742	(See Volume 30)
102 KAR 1:122			405 KAR 5:038		
Repealed	2997	8-13-03	Amended	2743	(See Volume 30)
102 KAR 1:150			405 KAR 5:045		
Amended	2939	(See Volume 30)	Amended	2745	(See Volume 30)
102 KAR 1:165			405 KAR 5:053	2721	(See Volume 30)
Amended	2940	(See Volume 30)	405 KAR 5:060		
102 KAR 1:185			Amended	2748	(See Volume 30)
Amended	2941	(See Volume 30)	405 KAR 5:075		
102 KAR 1:290	2998	8-13-03	Amended	2752	(See Volume 30)
105 KAR 1:150			405 KAR 5:080		
Amended	2724	(See Volume 30)	Amended	2754	(See Volume 30)
200 KAR 14:011			501 KAR 3:020		
Amended	2727	(See Volume 30)	Amended	2756	(See Volume 30)
201 KAR 18:101	2999	8-13-03	501 KAR 3:090		
201 KAR 18:102			Amended	2758	(See Volume 30)
Repealed	2999	8-13-03	501 KAR 3:100		
201 KAR 18:104	2999	(See Volume 30)	Amended	2759	(See Volume 30)
201 KAR 20:057			501 KAR 3:130		
Amended	2943	8-13-03	Amended	2760	(See Volume 30)
201 KAR 20:220			501 KAR 3:140		
Amended	2945	8-13-03	Amended	2762	(See Volume 30)
201 KAR 20:400			501 KAR 6:020		
Amended	2947	8-13-03	Amended	2763	(See Volume 30)
201 KAR 20:411			501 KAR 6:040		
Amended	2948	8-13-03	Amended	2983	(See Volume 30)
201 KAR 20:450			501 KAR 6:050		
Amended	2950	8-13-03	Amended	2765	(See Volume 30)
201 KAR 20:470			501 KAR 6:060		
Amended	2952	8-13-03	Amended	2768	(See Volume 30)
301 KAR 2:049			501 KAR 6:070		
Amended	2956	8-13-03	Amended	2526	(See Volume 30)



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	29 Ky.R. Page No.	Effective Date	Regulation Number	29 Ky.R. Page No.	Effective Date
501 KAR 6:999 Amended	2984	8-13-03	908 KAR 3:050 Amended	2777	(See Volume 30)
501 KAR 13:010 Amended	2770	(See Volume 30)	908 KAR 4:030 Amended	2779	(See Volume 30)
808 KAR 12:050 Amended	2401 2901	(See Volume 30)	908 KAR 5:010 911 KAR 2:120 Amended	3004	(See Volume 30)
815 KAR 7:120 Amended	2986	(See Volume 30)	911 KAR 2:130 Amended	2783	
815 KAR 20:011 815 KAR 20:020 Amended	3002 2988	8-13-03 8-13-03	911 KAR 2:200 Amended	2790	(See Volume 30)
815 KAR 20:030 Amended	2992		921 KAR 1:400 Amended	2795	(See Volume 30)
815 KAR 20:075 Repealed	3002	8-13-03	921 KAR 2:015 Amended	2801	7-16-03
815 KAR 20:076 900 KAR 6:050 Amended	3002 2530	8-13-03	922 KAR 1:130 Amended	2804	7-16-03
902 KAR 10:060 Amended	2902	(See Volume 30)	922 KAR 2:160 Amended	2187	
902 KAR 10:060 Amended	1895		922 KAR 3:020 Amended	2711	(See Volume 30)
902 KAR 50:050 Amended	2771	(See Volume 30)	922 KAR 3:030 Repealed	2810	(See Volume 30)
902 KAR 50:110 Amended	2773	(See Volume 30)	922 KAR 3:031 Amended	2994	7-24-03
906 KAR 1:140 907 KAR 1:015 Amended	3002 2774	(See Volume 30) (See Volume 30)	922 KAR 6:010 Repealed	2822	7-16-03
907 KAR 1:145 Amended	2547		922 KAR 6:060 Repealed	2822	7-16-03
907 KAR 1:479 Amended	2558	(See Volume 30)	922 KAR 6:061 922 KAR 6:070 Repealed	2817	7-16-03
907 KAR 1:680 Amended	2776	7-16-03		2823	7-16-03
				2823	7-16-03

## VOLUME 30

### EMERGENCY ADMINISTRATIVE REGULATIONS:

(Note: Emergency regulations expire 170 days from publication; or 170 days from publication plus number of days of requested extension; or upon replacement or repeal)

31 KAR 6:010E	1735	12-5-03	Replaced	989	1-5-04
31 KAR 6:020E	1736	11-26-03	301 KAR 2:222E	792	9-15-03
40 KAR 3:011E	195	7-1-03	Replaced	991	1-5-04
Expired		1-16-04	301 KAR 2:225E	796	8-28-03
105 KAR 1:380E	5	5-21-03	Replaced	995	1-5-04
Expired		12-18-03	503 KAR 1:160E	7	6-9-03
107 KAR 2:010E	196	7-1-03	503 KAR 3:050E	204	6-27-03
Replaced	844	10-31-03	Replaced	862	10-31-03
201 KAR 20:070E	1403	11-13-03	503 KAR 3:070E	206	6-27-03
201 KAR 41:025E	789	8-27-03	Replaced	863	10-31-03
Withdrawn		12-5-03	803 KAR 2:180E	798	9-10-03
301 KAR 2:081E	197	6-30-03	Replaced	1508	1-5-04
Withdrawn		7-24-03	806 KAR 17:180E	208	7-15-03
Resubmitted	554	7-24-03	Replaced	1518	1-5-04
Replaced	1505	1-5-04	815 KAR 35:040E	211	6-24-03
301 KAR 2:082E	201	6-30-03	902 KAR 45:065E		10-17-03
Replaced	404	10-31-03	Withdrawn		10-17-03
301 KAR 2:083E		5-13-2003	Resubmitted	1404	10-17-03
Replaced	1505	1-5-04	902 KAR 45:090E	213	7-1-03
301 KAR 2:221E	790	9-15-03	Replaced	1259	11-19-03
			907 KAR 1:006E	1410	11-3-03
			907 KAR 1:011E	800	8-29-03
			Replaced	1521	11-25-03
			907 KAR 1:013E	1412	11-3-03
			Withdrawn		12-2-03
			Resubmitted	1738	12-2-03



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
907 KAR 1:015E	558	8-4-03	11 KAR 5:145		
Replaced	1525	11-25-03	Amended	355	
907 KAR 1:023E	1422	10-27-03	As Amended	834	10-31-03
907 KAR 1:026E	1425	10-16-03	11 KAR 5:160		
907 KAR 1:031E	560	8-4-03	Amended	357	
Replaced	1527	11-25-03	As Amended	834	10-31-03
907 KAR 1:045E	219	6-27-03	11 KAR 6:010		
Withdrawn		10-1-03	Amended	358	
Resubmitted	1176	10-1-03	As Amended	835	10-31-03
907 KAR 1:060E	221	6-25-03	11 KAR 8:030		
Replaced	878	10-31-03	Amended	361	
907 KAR 1:065E	1430	11-31-03	As Amended	837	10-31-03
907 KAR 1:145E	565	7-22-03	Amended	1575	
907 KAR 1:155E	224	7-1-03	11 KAR 12:060		
Replaced	1264	12-5-03	Amended	364	10-31-03
907 KAR 1:170E	228	7-1-03	11 KAR 14:060		
Replaced	883	10-31-03	Amended	365	
907 KAR 1:360E	231	6-27-03	As Amended	839	10-31-03
Replaced	887	10-31-03	11 KAR 15:010		
907 KAR 1:585E	804	8-29-03	Amended	366	
Replaced	1531	11-25-03	As Amended	840	10-31-03
907 KAR 1:604E	1437	10-31-03	11 KAR 16:010		
907 KAR 1:626E	1440	10-16-03	Amended	1578	
907 KAR 1:640E	807	8-29-03	11 KAR 17:010	757	
Replaced	1533	11-25-03	As Amended	1193	12-1-03
907 KAR 1:645E	810	8-29-03	11 KAR 17:040	758	
Replaced	1536	11-25-03	As Amended	1194	
907 KAR 1:650E	813	8-29-03	11 KAR 17:050	759	
Replaced	1537	11-25-03	As Amended	1194	12-1-03
907 KAR 1:655E	9	5-23-03	11 KAR 17:060	760	
Replaced	1270	12-5-03	As Amended	1195	12-1-03
907 KAR 1:665E	816	8-29-03	11 KAR 17:070	761	
Replaced	1540	11-25-03	As Amended	1196	12-1-03
907 KAR 3:030E	234	7-1-03	11 KAR 17:080	763	
Replaced	1547	11-25-03	As Amended	1196	12-1-03
907 KAR 3:090E	1179	10-1-03	11 KAR 17:090	764	
907 KAR 3:110E	242	7-1-03	As Amended	1196	12-1-03
Replaced	1273	11-19-03	11 KAR 17:100	765	
907 KAR 3:170E	1749	12-1-03	As Amended	1197	12-1-03
908 KAR 1:340E	1443	10-21-03	11 KAR 17:110	766	
921 KAR 2:015E	1751	12-8-03	As Amended	1198	12-1-03
922 KAR 1:500E	818	8-29-03	11 KAR 18:010	1698	
Replaced	1561	1-5-04	13 KAR 2:090		
ORDINARY ADMINISTRATIVE REGULATIONS:			As Amended	14	7-17-03
			15 KAR 1:040		
			Amended	368	
9 KAR 1:040	661		As Amended	841	10-31-03
As Amended	1193	12-5-03	16 KAR 1:040		
11 KAR 3:100	338		Amended	370	
As Amended	821	10-31-03	As Amended	842	10-31-03
11 KAR 4:040	662		16 KAR 2:020	258	8-13-03
As Amended	1454	1-5-04	As Amended		
11 KAR 5:001	351		16 KAR 3:010	1321	
As Amended	832	10-31-03	Amended	1757	
11 KAR 5:034	1573		As Amended		
As Amended			16 KAR 3:020	1322	
11 KAR 5:130	1574		Amended	1757	
As Amended			As Amended		
11 KAR 5:140	354	10-31-03	16 KAR 3:030	1323	
As Amended			Amended	1758	
			As Amended		
			16 KAR 3:040	1325	
			Amended	1759	
			As Amended		
			16 KAR 3:050	1327	
			Amended		



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
As Amended	1760		40 KAR 3:010		
16 KAR 3:054	1381		Repealed	195	7-1-03
16 KAR 5:009	1381		102 KAR 1:030		
16 KAR 5:010			As Amended	271	8-13-03
As Amended	260	8-13-03	102 KAR 1:035		
16 KAR 6:020			Amended	1824	
As Amended	267	8-13-03	102 KAR 1:036		
16 KAR 6:030			As Amended	272	8-13-03
Amended	1329		102 KAR 1:038		
As Amended	1762		As Amended	272	8-13-03
16 KAR 7:010			102 KAR 1:057		
Amended	372		As Amended	273	8-13-03
Amended	902		102 KAR 1:070		
As Amended	1198	12-1-03	As Amended	273	8-13-03
16 KAR 8:040			102 KAR 1:100		
As Amended	270	8-13-03	As Amended	274	8-13-03
20 KAR 1:040			102 KAR 1:110		
Withdrawn		10-22-03	As Amended	274	8-13-03
Amended	1580		102 KAR 1:150		
20 KAR 1:080			As Amended	274	8-13-03
Withdrawn		10-22-03	Amended	1825	
Amended	1582		102 KAR 1:165		
20 KAR 1:090			As Amended	275	8-13-03
Withdrawn		10-22-03	102 KAR 1:185		
Amended	1583		As Amended	176	8-13-03
20 KAR 1:100			102 KAR 1:220		
Withdrawn		10-22-03	Amended	1331	
Resubmitted	1701		103 KAR 18:050		
20 KAR 2:010			Amended	664	
Repealed	767	12-1-03	As Amended	1455	11-25-03
20 KAR 2:011	767	12-1-03	103 KAR 18:070		
20 KAR 2:040			Amended	952	
Repealed	767	12-1-03	As Amended	1456	11-25-03
20 KAR 2:050			103 KAR 26:110	1382	
Repealed	767	12-1-03	As Amended	1763	
20 KAR 2:060			103 KAR 26:120	1702	
Repealed	767	12-1-03	As Amended	1904	
20 KAR 2:070			105 KAR 1:150		
Repealed	767	12-1-03	As Amended	17	7-17-03
20 KAR 2:080			105 KAR 1:380	1137	
Repealed	767	12-1-03	As Amended	1457	1-5-04
20 KAR 2:090			107 KAR 2:010	506	
Repealed	767	12-1-03	As Amended	844	10-31-03
20 KAR 2:100			200 KAR 5:015		
Repealed	767	12-1-03	Amended	666	
20 KAR 2:110			Withdrawn		11-12-03
Repealed	767	12-1-03	200 KAR 5:021		
30 KAR 3:010			Amended	667	
As Amended	17	7-17-03	As Amended	1459	1-5-04
31 KAR 6:010	1881		200 KAR 5:025		
30 KAR 6:020	1882		Repealed	1459	1-5-04
32 KAR 1:020			200 KAR 5:050		
As Amended	271	8-13-03	Repealed	1459	1-5-04
40 KAR 2:160			200 KAR 5:051	768	
Repealed	504	12-5-03	As Amended	1459	1-5-04
40 KAR 2:161	504	12-5-03	200 KAR 5:076		
40 KAR 2:170			Amended	667	
Repealed	504	12-5-03	As Amended	1459	1-5-04
40 KAR 2:180			200 KAR 5:302		
Repealed	504	12-5-03	Amended	668	
40 KAR 2:190			As Amended	1460	1-5-04
Repealed	504	12-5-03	200 KAR 5:304		
40 KAR 2:260			Repealed	1459	1-5-04
Repealed	504	12-5-03	200 KAR 5:305		
40 KAR 2:340	504		Amended	670	
As Amended	1203	12-5-03	As Amended	1461	1-5-04



LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
200 KAR 5:306			201 KAR 12:050		
Amended	672		Amended	958	
As Amended	1462	1-5-04	As Amended	1907	
200 KAR 5:307			201 KAR 12:055		
Amended	674		Amended	959	
As Amended	1463	1-5-04	As Amended	1908	
200 KAR 5:309			201 KAR 12:060		
Amended	676		Amended	960	
As Amended	1465	1-5-04	As Amended	1908	
200 KAR 5:310			201 KAR 12:065		
Amended	677		Amended	960	
As Amended	1466	1-5-04	As Amended	1909	
200 KAR 5:311			201 KAR 12:070		
Amended	678		Amended	1138	
As Amended	1466	1-5-04	As Amended	1564	
200 KAR 5:312			201 KAR 12:080		
Amended	679		Amended	961	
As Amended	1467	1-5-04	As Amended	1910	
200 KAR 5:313			201 KAR 12:082		
Amended	681		Amended	962	
As Amended	1468	1-5-04	As Amended	1910	
200 KAR 5:314			Amended	1565	
Amended	682		201 KAR 12:083		
As Amended	1468		Amended	965	
200 KAR 5:315			Amended	1567	
Amended	683		As Amended	1913	
As Amended	1469	1-5-04	201 KAR 12:088		
200 KAR 5:317			Amended	1139	
Amended	685		As Amended	1568	
As Amended	1470	1-5-04	As Amended	1914	
200 KAR 5:325			201 KAR 12:100		
Amended	686		Amended	1332	
As Amended	1471	1-5-04	As Amended	1917	
200 KAR 5:330			201 KAR 12:101		
Amended	687		Amended	966	
As Amended	1471	1-5-04	As Amended	1918	
200 KAR 14:011			201 KAR 12:110		
As Amended	20	7-17-03	Amended	967	
201 KAR 1:190			Withdrawn		12-29-03
As Amended	507		201 KAR 12:115		
201 KAR 2:074			Amended	1141	
Amended	75		As Amended	1570	
As Amended	577	8-20-03	As Amended	1918	
201 KAR 5:010			201 KAR 12:120		
Amended	377		Amended	969	
201 KAR 5:100			Amended	1571	
As Amended	1704		As Amended	1919	
201 KAR 8:490			201 KAR 12:125		
As Amended	1905		Amended	970	
201 KAR 9:350			As Amended	1920	
As Amended	1905		201 KAR 12:140		
201 KAR 12:020			Amended	971	
Amended	953		As Amended	1921	
As Amended	1905	11-19-03	201 KAR 12:150		
201 KAR 12:025			Amended	972	
Amended	955		As Amended	1922	
As Amended	1906		201 KAR 12:200		
201 KAR 12:030			Amended	973	
Amended	955		As Amended	1922	
As Amended	1906		201 KAR 12:210		
201 KAR 12:031			Amended	975	
Amended	956		As Amended	1923	
As Amended	1907		201 KAR 12:220		
201 KAR 12:045			As Amended	1142	
Amended	957		201 KAR 12:230		
As Amended	1907		As Amended	1143	
			201 KAR 12:240		
			Withdrawn	1144	
					12-29-03



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
201 KAR 18:040			201 KAR 28:140		
Amended	690		Amended	87	
As Amended	1204	12-5-03	As Amended	854	10-15-03
201 KAR 18:099	1704		201 KAR 28:170		
201 KAR 18:104			Amended	976	
As Amended	277	8-13-03	Amended	1780	
201 KAR 18:220	1705		As Amended	1927	
As Amended	1925		201 KAR 28:180	130	
201 KAR 18:221	1707		As Amended	855	10-15-03
201 KAR 20:070			201 KAR 28:200	131	
Amended	378	10-15-03	Amended	642	
Amended	1584		As Amended	856	10-15-03
As Amended	1926		201 KAR 29:050		
201 KAR 20:095			Amended	391	
Amended	380		As Amended	858	10-15-03
As Amended	847	10-15-03	201 KAR 32:010		
201 KAR 20:110			Amended	978	
Amended	381		As Amended	1764	
As Amended	848	10-15-03	201 KAR 32:025		
201 KAR 20:225			Amended	979	
Amended	383	10-15-03	As Amended	1764	
201 KAR 20:260			201 KAR 32:060		
Amended	384		Amended	981	
Withdrawn		11-12-03	As Amended	1766	
201 KAR 20:310			201 KAR 40:040	134	
Amended	386		As Amended	580	9-8-03
Withdrawn		11-12-03	201 KAR 40:050	135	
201 KAR 20:320			As Amended	580	9-8-03
Amended	77		201 KAR 40:060	136	
As Amended	578	8-20-03	As Amended	581	9-8-03
201 KAR 20:330			201 KAR 40:070	137	
Amended	78		As Amended	582	9-8-03
As Amended	579	8-20-03	201 KAR 40:080	139	
201 KAR 20:370			As Amended	583	9-8-03
Amended	387	10-15-03	201 KAR 40:090	141	
201 KAR 20:390			As Amended	584	9-8-03
Amended	389	10-15-03	201 KAR 40:100	143	
201 KAR 20:411			As Amended	585	9-8-03
Amended	1985		201 KAR 41:020	770	
201 KAR 20:480	511		Withdrawn		8-27-03
As Amended	849	10-15-03	201 KAR 41:025	1145	
201 KAR 28:010			Withdrawn		12-5-03
Amended	79		201 KAR 41:030	771	
As Amended	849		As Amended	1207	12-5-03
As Amended	1205	10-15-03	201 KAR 41:040	772	
201 KAR 28:020			As Amended	1207	12-5-03
Amended	81		201 KAR 41:050	773	
As Amended	851	10-15-03	Withdrawn		10-13-03
201 KAR 28:030			202 KAR 6:100	513	
Amended	82		Amended	907	
As Amended	851	10-15-03	As Amended	1208	12-5-03
201 KAR 28:050			202 KAR 7:010		
Repealed	130	10-15-03	Amended	89	
201 KAR 28:051	130	10-15-03	Amended	909	
201 KAR 28:060			As Amended	1209	11-19-03
Amended	83		As Amended	1474	
Amended	639	10-15-03	202 KAR 7:020	144	
201 KAR 28:070			Amended	912	
Amended	84	10-15-03	As Amended	1211	11-19-03
201 KAR 28:120			202 KAR 7:030		
Repealed	512	10-15-03	Amended	91	
201 KAR 28:121	512	10-15-03	Amended	914	
201 KAR 28:130			As Amended	1213	11-19-03
Amended	85		202 KAR 7:055	146	
Amended	640		As Amended	1213	11-19-03
As Amended	852	10-15-03			



LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
202 KAR 7:201	147		301 KAR 2:083		
Amended	915		Amended	407	
As Amended	1214		Amended	1305	
As Amended	1476	11-19-03	As Amended	1505	1-5-04
202 KAR 7:301	149		301 KAR 2:144		
Amended	917		Amended	410	10-31-03
As Amended	1216		301 KAR 2:172		
As Amended	1478	11-19-03	Amended	983	1-5-04
202 KAR 7:401	152		301 KAR 2:178		
Amended	920		Amended	985	1-5-04
As Amended	1218		301 KAR 2:221		
As Amended	1480	11-19-03	Amended	989	1-5-04
202 KAR 7:461			301 KAR 2:222		
Repealed	504	12-5-03	Amended	991	1-5-04
202 KAR 7:462	515	11-19-03	301 KAR 2:225		
202 KAR 7:501	155		Amended	995	1-5-04
Amended	923		301 KAR 3:022		
As Amended	1221		Amended	695	12-5-03
As Amended	1483	11-19-03	301 KAR 3:030		
202 KAR 7:510	162		Amended	411	10-31-03
Amended	930		301 KAR 4:100		
As Amended	1228		Amended	412	10-31-03
As Amended	1489	11-19-03	301 KAR 6:060		
202 KAR 7:601	167		Amended	414	10-31-03
Amended	935		301 KAR 6:070	1149	
As Amended	1233		As Amended	1767	
As Amended	1495	11-19-03	302 KAR 39:010	177	
202 KAR 7:701	174		As Amended	586	9-8-03
Amended	942		302 KAR 40:010		
As Amended	1240		Amended	697	
As Amended	1501	11-19-03	As Amended	1507	1-5-04
202 KAR 7:801	176		307 KAR 2:010		
Amended	945		As Amended	279	8-13-03
202 KAR 8:020	1146	11-19-03	307 KAR 6:010		
Withdrawn		11-4-03	As Amended	281	8-13-03
202 KAR 8:030	1147		401 KAR 5:002		
As Amended	1503	1-5-04	Amended	997	
301 KAR 1:020			401 KAR 5:005		
Amended	393	10-31-03	Amended	1333	
301 KAR 1:115			Amended	1781	
Amended	1585		401 KAR 5:026		
301 KAR 1:201			Amended	1010	
Amended	394	10-31-03	Amended	1791	
Amended	1586		401 KAR 5:029		
301 KAR 1:210			Amended	1021	
Amended	1590		401 KAR 5:030		
301 KAR 1:220	516		Amended	1024	
As Amended	859	10-31-03	Amended	1801	
Amended	1591		401 KAR 5:031		
301 KAR 1:300			Amended	1035	
Repealed	518	10-15-03	Amended	1813	
301 KAR 1:301	518	10-31-03	401 KAR 47:030		
301 KAR 1:310			Amended	1343	
Repealed	518	10-31-03	Amended	1958	
301 KAR 2:041			401 KAR 52:080		
Amended	398	10-31-03	Amended	645	
301 KAR 2:075			As Amended	860	10-31-03
As Amended	278		401 KAR 57:002		
301 KAR 2:081			As Amended	587	9-10-03
Amended	400		401 KAR 60:005		
Withdrawn		7-24-03	As Amended	588	9-10-03
Amended	691		401 KAR 63:002		
Amended	1302	1-5-04	As Amended	591	9-10-03
301 KAR 2:082			401 KAR 63:005		
Amended	404	10-31-03	Amended	1346	
			*Died		1-15-04



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
401 KAR 63:105			503 KAR 1:140		
As Amended	282	8-13-03	Amended	1593	
401 KAR 100:030	1707		503 KAR 1:160		
Amended	1961		Amended	698	
405 KAR 5:001			503 KAR 1:170		
As Amended	594	9-12-03	Amended	415	10-31-03
405 KAR 5:030			503 KAR 3:050		
Amended	308		Amended	419	
As Amended	596	9-12-03	As Amended	862	10-31-03
405 KAR 5:035			503 KAR 3:070		
As Amended	602	9-12-03	Amended	421	
405 KAR 5:038			As Amended	863	10-31-03
As Amended	603	9-12-03	505 KAR 1:010		
405 KAR 5:045			Amended	423	
As Amended	604	9-12-03	As Amended	864	10-31-03
405 KAR 5:053			505 KAR 1:050		
As Amended	605	9-12-03	Amended	424	
405 KAR 5:060			As Amended	864	10-31-03
Amended	314		505 KAR 1:060		
As Amended	606	9-12-03	Amended	425	
405 KAR 5:075			As Amended	865	10-31-03
As Amended	609	9-12-03	505 KAR 1:070		
405 KAR 5:080			Amended	427	
As Amended	611	9-12-03	As Amended	866	10-31-03
405 KAR 7:001			505 KAR 1:110		
Amended	1045		Amended	429	10-31-03
405 KAR 8:001			Amended	1826	
Amended	1050		505 KAR 1:120		
405 KAR 10:001			Amended	430	10-31-03
Amended	1057		505 KAR 1:130		
405 KAR 12:001			Amended	1828	
Amended	1060		505 KAR 1:140		
405 KAR 16:001			Amended	1829	
Amended	1063		601 KAR 1:005		
405 KAR 18:001			Amended	1831	
Amended	1069		601 KAR 1:018		
405 KAR 20:001			Amended	1349	
Amended	1075		601 KAR 9:085		
405 KAR 24:001			Amended	1354	
Amended	1079		601 KAR 9:135		
501 KAR 3:020			Amended	1355	
As Amended	22	7-17-03	601 KAR 11:040		
501 KAR 3:090			Amended	1833	
As Amended	23	7-17-03	601 KAR 11:061		
501 KAR 3:100			Amended	1884	
As Amended	24	7-17-03	601 KAR 12:031		
501 KAR 3:130			Amended	1885	
As Amended	24	7-17-03	603 KAR 5:066		
501 KAR 3:140			Amended	1359	
As Amended	282	8-13-03	603 KAR 5:070		
501 KAR 6:020			Amended	1362	
As Amended	25	7-17-03	605 KAR 1:040		
501 KAR 6:040			703 KAR 5:001		
As Amended	283	8-13-03	Amended	1886	
501 KAR 6:050			703 KAR 5:020		
As Amended	26	7-17-03	Amended	1836	
501 KAR 6:060			703 KAR 5:070		
As Amended	28	7-17-03	Amended	1841	
501 KAR 6:070			703 KAR 5:120		
As Amended	29	7-17-03	Amended	1843	
501 KAR 13:010			703 KAR 5:130		
As Amended	31	7-17-03	Amended	1846	
502 KAR 10:100			703 KAR 5:160		
Withdrawn	518	11-12-03	704 KAR 7:050		
502 KAR 10:110			Amended	93	
As Amended	519	12-5-03	As Amended	866	10-31-03
	1242		704 KAR 7:061		
				1384	



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
770 KAR 1:070	522		804 KAR 4:250		
As Amended	867	10-31-03	Amended	1094	
780 KAR 3:080			As Amended	1512	1-5-04
Amended	701		804 KAR 4:260		
As Amended	1243	12-1-03	Amended	1095	
787 KAR 1:090			As Amended	1512	1-5-04
Amended	702		804 KAR 4:310		
As Amended	1244	12-5-03	Amended	1096	
803 KAR 2:180			As Amended	1513	1-5-04
Amended	1083		804 KAR 4:320		
As Amended	1508	1-5-04	Repealed	523	10-31-03
803 KAR 2:304			804 KAR 4:340		
Amended	705	12-5-03	Amended	1097	
803 KAR 2:307			As Amended	1513	1-5-04
Amended	708	12-5-03	804 KAR 4:350		
803 KAR 2:311			Amended	1098	
Amended	710	12-5-03	As Amended	1514	1-5-04
803 KAR 2:317			804 KAR 4:380	1150	
Amended	712	12-5-03	As Amended	1514	1-5-04
803 KAR 2:320			804 KAR 5:070		
Amended	714	12-5-03	Amended	1099	
803 KAR 25:010			Withdrawn		11-10-03
Amended	94		804 KAR 6:010		
Amended	648	10-31-03	Amended	1101	
803 KAR 25:125	178		As Amended	1515	1-5-04
As Amended	867	10-31-03	804 KAR 7:041	524	10-31-03
803 KAR 25:175			804 KAR 7:045		
Amended	1084		Repealed	524	10-31-03
As Amended	1509	1-5-04	804 KAR 8:050		
804 KAR 1:130			Amended	1103	
Repealed	523	10-31-03	As Amended	1517	1-5-04
804 KAR 1:131	523	10-31-03	804 KAR 9:010		
804 KAR 4:030			Amended	1104	
Amended	1085		Withdrawn		11-10-03
As Amended	1767		805 KAR 1:190	1385	
804 KAR 4:040			Amended	1965	
Amended	1087		806 KAR 3:041	1711	
As Amended	1509	1-5-04	As Amended	1928	
804 KAR 4:080			806 KAR 3:230	774	
Repealed	523	10-31-03	Amended	1308	
804 KAR 4:081	523	10-31-03	As Amended	1517	1-5-04
804 KAR 4:090			806 KAR 17:180		
Repealed	523	10-31-03	Amended	432	
804 KAR 4:120			As Amended	1518	1-5-04
Repealed	523	10-31-03	806 KAR 17:240		
As Amended			Amended	103	
804 KAR 4:130			Amended	657	10-31-03
Amended	1088		806 KAR 17:460	179	
As Amended	1509	1-5-04	As Amended	611	9-15-03
804 KAR 4:140			808 KAR 9:040	525	
Amended	1089		As Amended	868	10-31-03
As Amended	1510	1-5-04	808 KAR 12:002	1892	
804 KAR 4:160			808 KAR 12:005	1151	
Amended	1090		*Died		11-14-03
As Amended	1510	1-5-04	808 KAR 12:020		
804 KAR 4:220			Amended	1105	
Amended	1091		*Died		11-14-03
As Amended	1510	1-5-04	808 KAR 12:050		
804 KAR 4:230			As Amended	284	8-13-03
Amended	1092		808 KAR 12:060	1152	
As Amended	1511	1-5-04	*Died		11-14-03
804 KAR 4:240			808 KAR 12:065	1893	
Amended	1093		808 KAR 12:070	1153	
As Amended	1512	1-5-04	*Died		11-14-03
804 KAR 4:245			808 KAR 12:075	1894	
Repealed	523	10-31-03			



LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
808 KAR 12:080	1154		Amended	1109	
*Died		11-14-03	As Amended	1521	11-25-03
808 KAR 12:085	1895		907 KAR 1:013		
808 KAR 12:090	1155		Amended	437	
*Died		11-14-03	Withdrawn		11-3-03
808 KAR 12:095	1896		Amended	1617	
808 KAR 12:100	1155		Withdrawn		12-2-03
*Died		11-14-03	Amended	1848	
810 KAR 1:027			907 KAR 1:015		
Amended	720		As Amended	288	
As Amended	1246	12-5-03	Withdrawn		8-4-03
815 KAR 4:010			Amended	725	
Amended	1598		As Amended	1525	11-25-03
815 KAR 7:120			907 KAR 1:018		
As Amended	285	8-13-03	Amended	112	
Amended	1599		As Amended	617	8-20-03
815 KAR 20:020			907 KAR 1:022		
Amended	1601		Amended	115	
815 KAR 20:110			As Amended	873	10-31-03
Amended	1605		907 KAR 1:023		
815 KAR 35:040	526		Amended	1628	
820 KAR 1:001			As Amended	1938	
Amended	1606		907 KAR 1:026		
820 KAR 1:040			Amended	1630	
Amended	1608		As Amended	1939	
900 KAR 6:030			907 KAR 1:031		
Amended	104		Amended	727	
As Amended	612	8-20-03	As Amended	1527	11-25-03
900 KAR 6:050			907 KAR 1:035		
As Amended	32	7-16-03	Amended	1859	
902 KAR 2:055	1990		907 KAR 1:045		
902 KAR 20:008			Amended	447	
Amended	434		Withdrawn		10-1-03
As Amended	868	10-15-03	Amended	1364	
902 KAR 20:014	180		907 KAR 1:060		
As Amended	612	8-20-03	Amended	450	
902 KAR 20:058			As Amended	878	10-31-03
Amended	1612		907 KAR 1:065		
As Amended	1929		Amended	1635	
902 KAR 45:065	1712		907 KAR 1:145		
As Amended	1931		Amended	57	
902 KAR 45:070	529		As Amended	290	
As Amended	1248	11-19-03	Withdrawn		7-22-03
902 KAR 45:090	535		Amended	732	
As Amended	1259	11-19-03	As Amended	1770	
902 KAR 50:050			907 KAR 1:155		
As Amended	286	8-13-03	Amended	452	
902 KAR 50:110			As Amended	1264	12-5-03
As Amended	288	8-13-03	907 KAR 1:160		
906 KAR 1:100			Amended	456	
Amended	1106		As Amended	880	10-31-03
As Amended	1519	11-25-03	907 KAR 1:170		
906 KAR 1:120			Amended	460	
Amended	723		As Amended	883	10-31-03
Amended	1309		907 KAR 1:340		
As Amended	1768		Amended	122	
906 KAR 1:140			Amended	658	
As Amended	870	10-15-03	As Amended	886	10-31-03
907 KAR 1:006			907 KAR 1:360		
Amended	105		Amended	463	
As Amended	871	10-31-03	As Amended	887	10-31-03
Amended	1615		907 KAR 1:479		
As Amended	1937		As Amended	42	7-16-03
907 KAR 1:011			907 KAR 1:520		
Amended	107		Amended	466	
As Amended	613	8-20-03	As Amended	1267	12-5-03



# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	30 Ky.R. Page No.	Effective Date	Regulation Number	30 Ky.R. Page No.	Effective Date
907 KAR 1:530			911 KAR 2:130		
Amended	468		Amended	325	
As Amended	1268	12-5-03	As Amended	625	
907 KAR 1:585			As Amended	888	8-20-03
Amended	1114		Amended	1870	
As Amended	1531	11-25-03	911 KAR 2:200		
907 KAR 1:604			Amended	330	
Amended	469		As Amended	630	
As Amended	1269		As Amended	893	8-20-03
Withdrawn		10-31-03	920 KAR 1:060		
Amended	1642		Amended	754	
As Amended	1943		As Amended	1294	12-5-03
907 KAR 1:626			921 KAR 1:410		
Amended	1645		Amended	1127	
As Amended	1945		As Amended	1554	1-5-04
907 KAR 1:640			921 KAR 2:015		
Amended	1117		Amended	1875	
As Amended	1533	11-25-03	921 KAR 2:046		
907 KAR 1:645			Amended	1134	
Amended	1120		As Amended	1560	1-5-04
As Amended	1536	11-25-03	921 KAR 2:491	540	10-15-03
907 KAR 1:650			921 KAR 3:035		
Amended	123		Amended	126	
Withdrawn		8-29-03	As Amended	636	8-20-03
Amended	1122		921 KAR 3:045		
As Amended	1537	11-25-03	Amended	494	
907 KAR 1:655			As Amended	899	10-15-03
Amended	743		922 KAR 1:050		
As Amended	1270	12-5-03	Amended	1659	
907 KAR 1:665			922 KAR 1:130		
Amended	1125		As Amended	51	7-16-03
As Amended	1540	11-25-03	922 KAR 1:310		
907 KAR 1:805	181	8-20-03	Amended	1662	
907 KAR 3:005			922 KAR 1:320		
Amended	747		Amended	1679	
As Amended	1541	11-25-03	922 KAR 1:330		
907 KAR 3:010			Amended	1682	
Amended	750		922 KAR 1:350		
As Amended	1543	11-25-03	Amended	1688	
907 KAR 3:030			922 KAR 1:480	1718	
Amended	471		922 KAR 1:500	1156	
Amended	1311		As Amended	1561	1-5-04
As Amended	1547	11-25-03	922 KAR 2:100		
907 KAR 3:090			Amended	497	
Amended	1367		Amended	945	
Amended	1970		As Amended	1295	12-5-03
907 KAR 3:110			922 KAR 2:160		
Amended	480		Amended	68	
As Amended	1273	12-5-03	As Amended	301	
907 KAR 3:170			922 KAR 2:230	1158	
Amended	1861		As Amended	1562	1-5-04
908 KAR 1:340			922 KAR 2:250	1159	
Amended	1649		As Amended	1562	1-5-04
As Amended	1948		922 KAR 3:020		
908 KAR 3:050			Amended	1987	
As Amended	46	7-16-03			
908 KAR 4:030					
As Amended	47	7-16-03			
908 KAR 5:010					
As Amended	300				
911 KAR 2:120					
Amended	318				
As Amended	619				
As Amended	1287	9-16-03			
Amended	1870				

\* Statement of Consideration not filed by deadline



## KRS SECTION

## REGULATION

## KRS SECTION

## REGULATION

## KRS INDEX

11.550	907 KAR	3:170		200 KAR	5:325
11A.211	9 KAR	1:040		922 KAR	1:350
11A.216	9 KAR	1:040	45A.045	200 KAR	5:302
11A.221	9 KAR	1:040	45A.070-45A.120	200 KAR	5:313
11A.231	9 KAR	1:040	45A.080	200 KAR	5:306
11A.233	9 KAR	1:040		200 KAR	5:315
11A.241	9 KAR	1:040	45A.085	200 KAR	5:307
11A.990	9 KAR	1:040		200 KAR	5:315
Chapter 13A	202 KAR	7:020	45A.090	200 KAR	5:307
13A.310	16 KAR	3:054	45A.095	200 KAR	5:309
	16 KAR	5:009	45A.185	200 KAR	5:315
	806 KAR	3:041	45A.190	200 KAR	5:305
Chapter 13B	11 KAR	17:110		200 KAR	5:315
	201 KAR	18:220	45A.195	200 KAR	5:305
	201 KAR	40:090	45A.215	200 KAR	5:317
	902 KAR	45:065	45A.230	200 KAR	5:315
	902 KAR	45:070	45A.325	200 KAR	5:315
	902 KAR	45:090	45A.500-45A.540	200 KAR	5:330
	922 KAR	1:320	45A.675	200 KAR	5:076
	922 KAR	1:480		200 KAR	5:302
	922 KAR	1:500	45A.680	200 KAR	5:076
	922 KAR	2:230	61.510-61.705	105 KAR	1:380
	922 KAR	2:250	61.870-61.884	922 KAR	1:330
	922 KAR	2:100		922 KAR	1:350
13B.005-13B.070	906 KAR	1:100	65.7621-65.7643	202 KAR	6:100
13B.005-13B.170	921 KAR	1:410	67A.620	921 KAR	1:410
13B.010	922 KAR	1:480	78.510-78.852	105 KAR	1:380
	922 KAR	1:330	95.620	921 KAR	1:410
13B.050	922 KAR	1:480	95.878	921 KAR	1:410
13B.090	922 KAR	1:330	117.015	31 KAR	6:010
13B.120	922 KAR	2:100		31 KAR	6:020
13B.125	922 KAR	1:330	138.665	601 KAR	1:005
13B.140	922 KAR	1:330	139.050	103 KAR	26:110
13B.150	201 KAR	18:221		103 KAR	26:120
13B.170	921 KAR	1:410	139.100	103 KAR	26:110
	503 KAR	1:170		103 KAR	26:120
15.310	503 KAR	1:140	139.110	103 KAR	26:110
15.330	503 KAR	1:140		103 KAR	26:120
15.380	503 KAR	1:140	139.120	103 KAR	26:110
15.382	503 KAR	3:050		103 KAR	26:120
15.550	503 KAR	3:050	139.140	103 KAR	26:110
15.560	503 KAR	3:070		103 KAR	26:120
15A.065	505 KAR	1:110	139.200	103 KAR	26:110
	505 KAR	1:120		103 KAR	26:120
	505 KAR	1:130	139.260	103 KAR	26:110
	505 KAR	1:140		103 KAR	26:120
15A.067	505 KAR	1:110	139.270	103 KAR	26:110
	505 KAR	1:120		103 KAR	26:120
	505 KAR	1:130	139.280	103 KAR	26:120
	505 KAR	1:140	139.310	103 KAR	26:110
15A.200-15A.245	505 KAR	1:140		103 KAR	26:120
15A.300	505 KAR	1:010	139.330	103 KAR	26:110
	505 KAR	1:050		103 KAR	26:120
	505 KAR	1:060	139.480	103 KAR	26:110
	505 KAR	1:070	141.206	103 KAR	18:070
15A.305	505 KAR	1:140	141.315	103 KAR	18:070
16.505-16.652	105 KAR	1:380	141.330	103 KAR	18:050
17.165	922 KAR	1:310	141.335	103 KAR	18:050
	922 KAR	2:100	146.200-146.360	401 KAR	5:026
Chapter 45A	200 KAR	5:021		401 KAR	5:029
	200 KAR	5:051		401 KAR	5:030
	200 KAR	5:310		401 KAR	5:031
	200 KAR	5:311	146.410-146.535	401 KAR	5:026
	200 KAR	5:312		401 KAR	5:029
	200 KAR	5:314		401 KAR	5:030



KRS SECTION	REGULATION	KRS SECTION	REGULATION
146.550-146.570	401 KAR 5:031	150.330	301 KAR 2:081
	401 KAR 5:026		301 KAR 2:221
	401 KAR 5:029		301 KAR 2:222
	401 KAR 5:030		301 KAR 2:225
146.600-146.619	401 KAR 5:031	150.340	301 KAR 1:220
	401 KAR 5:026		301 KAR 1:301
	401 KAR 5:029		301 KAR 2:172
	401 KAR 5:030		301 KAR 2:178
146.990	401 KAR 5:031		301 KAR 2:221
	401 KAR 5:026		301 KAR 2:222
	401 KAR 5:030		301 KAR 2:225
150.010	401 KAR 5:031	150.360	301 KAR 2:081
	301 KAR 1:210		301 KAR 2:144
	301 KAR 2:041		301 KAR 2:172
	301 KAR 2:081		301 KAR 2:178
	301 KAR 2:172		301 KAR 2:225
	301 KAR 2:178		301 KAR 3:030
	301 KAR 2:221	150.370	301 KAR 2:081
	301 KAR 2:222		301 KAR 2:172
	301 KAR 3:030		301 KAR 2:178
150.015	301 KAR 2:081		301 KAR 3:030
	301 KAR 2:082	150.390	301 KAR 2:144
150.025	301 KAR 1:115		301 KAR 2:172
	301 KAR 1:210		301 KAR 2:178
	301 KAR 2:221	150.395	301 KAR 2:172
	301 KAR 2:222		301 KAR 2:178
	301 KAR 3:030	150.440	301 KAR 1:220
	301 KAR 4:100		301 KAR 1:301
150.170	301 KAR 1:020	150.445	301 KAR 1:220
	301 KAR 1:210		301 KAR 1:301
	301 KAR 1:220	150.450	301 KAR 1:115
	301 KAR 1:301		301 KAR 1:220
	301 KAR 2:041		301 KAR 1:301
	301 KAR 2:172	150.470	301 KAR 1:201
	301 KAR 2:178		301 KAR 1:301
	301 KAR 3:022		301 KAR 1:220
150.175	301 KAR 1:020	150.485	301 KAR 1:115
	301 KAR 1:210		301 KAR 3:022
	301 KAR 2:041	150.520	301 KAR 3:022
	301 KAR 2:144	150.525	301 KAR 1:220
	301 KAR 2:172		301 KAR 1:301
	301 KAR 2:178		301 KAR 3:022
	301 KAR 3:022	150.600	301 KAR 2:221
150.180	301 KAR 2:041		301 KAR 2:222
	301 KAR 2:081	150.603	301 KAR 2:225
	301 KAR 2:082		301 KAR 3:022
	301 KAR 2:083	150.620	301 KAR 2:225
	301 KAR 2:172		301 KAR 4:100
	301 KAR 2:178	150.630	301 KAR 2:041
150.235	301 KAR 1:020	150.660	301 KAR 3:022
	301 KAR 3:022	150.990	301 KAR 1:201
150.240	301 KAR 2:041		301 KAR 2:041
	301 KAR 3:022		301 KAR 2:144
150.250	301 KAR 4:100		301 KAR 2:172
150.280	301 KAR 1:115		301 KAR 2:178
	301 KAR 2:081		301 KAR 2:221
	301 KAR 2:082		301 KAR 2:222
	301 KAR 2:083		301 KAR 3:030
150.290	301 KAR 1:115		301 KAR 4:100
	301 KAR 2:081	151B.035	780 KAR 3:080
	301 KAR 2:082	154.47	200 KAR 5:325
	301 KAR 2:083	156.495	704 KAR 7:061
	301 KAR 3:022	157.250	16 KAR 3:040
150.305	301 KAR 2:081	157.395	16 KAR 1:040
	301 KAR 2:082	158.035	902 KAR 2:055
	301 KAR 2:144	158.135	922 KAR 1:310
	301 KAR 2:221	158.148	704 KAR 7:050
	301 KAR 2:222	158.150	704 KAR 7:050
150.320	301 KAR 2:081	158.645	703 KAR 5:001



## KRS SECTION

## REGULATION

## KRS SECTION

## REGULATION

	703 KAR	5:020		922 KAR	2:250
	703 KAR	5:130	164.740	11 KAR	4:040
	703 KAR	5:160	164.740-164.785	11 KAR	5:001
158.6451	703 KAR	5:001	164.744	11 KAR	3:100
	703 KAR	5:020		11 KAR	5:034
	703 KAR	5:070		11 KAR	5:145
	703 KAR	5:120		11 KAR	5:160
	703 KAR	5:130		11 KAR	8:030
	703 KAR	5:160		11 KAR	18:010
158.6453	703 KAR	5:001	164.744-164.753	11 KAR	5:130
	703 KAR	5:020		11 KAR	5:140
	703 KAR	5:070	164.748	11 KAR	3:100
	703 KAR	5:120		11 KAR	4:040
	703 KAR	5:130		11 KAR	6:010
	703 KAR	5:160		11 KAR	18:010
158.6455	703 KAR	5:001	164.753	11 KAR	3:100
	703 KAR	5:020		11 KAR	5:034
	703 KAR	5:070		11 KAR	5:145
	703 KAR	5:120		11 KAR	6:010
	703 KAR	5:130		11 KAR	8:030
	703 KAR	5:160	164.7535	11 KAR	5:034
158.6457	703 KAR	5:001		11 KAR	5:145
	703 KAR	5:020		11 KAR	5:130
	703 KAR	5:160		11 KAR	5:160
158.782	703 KAR	5:120	164.769	11 KAR	8:030
158.805	703 KAR	5:120	164.780	11 KAR	5:130
159.080	16 KAR	3:030		11 KAR	5:140
159.140	922 KAR	1:330		11 KAR	5:160
161.020	16 KAR	3:010	164.785	11 KAR	5:130
	16 KAR	3:020		11 KAR	5:140
	16 KAR	3:030		11 KAR	5:160
	16 KAR	3:040	164.7871-164.7885	11 KAR	15:010
	16 KAR	3:050	164.7889	11 KAR	5:145
	16 KAR	3:054	164.7891	11 KAR	14:060
	16 KAR	5:009	164A.040	15 KAR	1:040
	16 KAR	6:030	164A.050	15 KAR	1:040
161.027	16 KAR	3:050	164A.060	15 KAR	1:040
	16 KAR	3:054	164A.065	15 KAR	1:040
	16 KAR	6:030	164A.325	11 KAR	12:060
161.028	16 KAR	3:010	164A.350	11 KAR	12:060
	16 KAR	3:020	164A.575	770 KAR	1:070
	16 KAR	3:030	164A.580	770 KAR	1:070
	16 KAR	3:050	164A.585	770 KAR	1:070
	16 KAR	3:054	164A.590	770 KAR	1:070
	16 KAR	5:009	164A.595	770 KAR	1:070
	16 KAR	7:010	164A.600	770 KAR	1:070
161.030	16 KAR	3:010	164A.700	11 KAR	17:040
	16 KAR	3:020		11 KAR	17:060
	16 KAR	3:030		20 KAR	2:011
	16 KAR	3:040	164A.700-164A.709	11 KAR	17:010
	16 KAR	3:050		11 KAR	17:110
	16 KAR	3:054	164A.701	11 KAR	17:100
	16 KAR	5:009		20 KAR	2:011
	16 KAR	6:030	164A.704	11 KAR	17:050
	16 KAR	7:010		11 KAR	17:100
161.042	16 KAR	5:009		20 KAR	2:011
161.048	16 KAR	7:010	164A.705	11 KAR	17:040
161.131	16 KAR	1:040		11 KAR	17:050
161.132	16 KAR	1:040		11 KAR	17:070
161.133	16 KAR	1:040		20 KAR	2:011
161.134	16 KAR	1:040	164A.707	11 KAR	17:040
161.220	102 KAR	1:220		11 KAR	17:050
161.605	102 KAR	1:035		11 KAR	17:060
161.620	102 KAR	1:150		20 KAR	2:011
161.630	102 KAR	1:150	164A.709	11 KAR	17:040
161.700	921 KAR	1:410		11 KAR	17:070
164.2847	922 KAR	1:500		11 KAR	17:080
164.518	11 KAR	16:010		11 KAR	17:090
	922 KAR	2:230		11 KAR	17:100



## KRS SECTION

## REGULATION

## KRS SECTION

## REGULATION

165A.330 20 KAR 2:011  
 201 KAR 40:040  
 201 KAR 40:050  
 201 KAR 40:060  
 201 KAR 40:070  
 201 KAR 40:080  
 201 KAR 40:090  
 201 KAR 40:100  
 165A.350 201 KAR 40:090  
 165A.360 201 KAR 40:090  
 165A.370 201 KAR 40:040  
 201 KAR 40:050  
 201 KAR 40:060  
 201 KAR 40:070  
 201 KAR 40:080  
 201 KAR 40:090  
 201 KAR 40:090  
 201 KAR 40:100  
 165A.460-165A.515 201 KAR 40:040  
 201 KAR 40:050  
 201 KAR 40:060  
 201 KAR 40:070  
 201 KAR 40:080  
 201 KAR 40:090  
 201 KAR 40:100  
 201 KAR 40:090  
 165A.990 202 KAR 8:020  
 171.782 202 KAR 8:030  
 171.784 202 KAR 8:020  
 202 KAR 8:030  
 171.786 202 KAR 8:020  
 202 KAR 8:030  
 186.020 601 KAR 9:135  
 922 KAR 2:100  
 186.050 601 KAR 9:135  
 603 KAR 5:070  
 186.051 601 KAR 9:135  
 186.450 601 KAR 12:031  
 186.570 921 KAR 1:410  
 186.655 603 KAR 5:070  
 186A.115 601 KAR 9:085  
 189.221 601 KAR 1:018  
 189.222 601 KAR 1:018  
 603 KAR 5:066  
 603 KAR 5:070  
 189.270 601 KAR 1:018  
 189.2715 601 KAR 1:018  
 189.2717 601 KAR 1:018  
 190.010-190.990 605 KAR 1:040  
 194A.060 907 KAR 3:170  
 194A.540 201 KAR 20:070  
 201 KAR 20:095  
 201 KAR 20:110  
 194A.505 907 KAR 1:655  
 194B.005 922 KAR 1:320  
 194B.030 922 KAR 1:320  
 194B.060 922 KAR 1:310  
 922 KAR 1:350  
 194B.370 922 KAR 3:020  
 195.105 922 KAR 3:020  
 198B.010 815 KAR 7:120  
 198B.040 815 KAR 7:120  
 198B.050 815 KAR 7:120  
 198B.060 815 KAR 7:120  
 198B.080 815 KAR 7:120  
 198B.110 815 KAR 7:120  
 198B.260 815 KAR 7:120  
 198B.400 815 KAR 4:010  
 198B.470 815 KAR 4:010

198B.480  
 198B.490  
 198B.500  
 198B.510  
 198B.540  
 198B.990  
 199.011  
 199.430  
 199.462  
 199.470  
 199.471  
 199.492  
 199.493  
 199.510  
 199.520  
 199.555  
 199.557  
 199.570  
 199.572  
 199.590  
 199.640  
 199.645  
 199.650-199.670  
 199.894  
 199.8941  
 199.896  
 199.898  
 199.8982  
 200.080-200.120  
 200.151  
 200.654  
 200.660  
 200.664  
 200.711  
 202A.011  
 202B.010  
 205.010  
 205.200  
 205.245  
 205.520

815 KAR 4:010  
 815 KAR 4:010  
 815 KAR 4:010  
 815 KAR 4:010  
 815 KAR 4:010  
 815 KAR 7:120  
 922 KAR 1:310  
 922 KAR 1:350  
 922 KAR 1:310  
 922 KAR 1:050  
 922 KAR 1:350  
 922 KAR 1:310  
 922 KAR 1:350  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:050  
 922 KAR 1:050  
 922 KAR 1:320  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 1:310  
 922 KAR 2:100  
 922 KAR 2:250  
 922 KAR 2:230  
 922 KAR 2:100  
 922 KAR 2:230  
 922 KAR 2:250  
 922 KAR 2:100  
 922 KAR 2:100  
 505 KAR 1:110  
 505 KAR 1:120  
 505 KAR 1:130  
 505 KAR 1:140  
 922 KAR 2:230  
 922 KAR 2:250  
 911 KAR 2:120  
 911 KAR 2:130  
 911 KAR 2:130  
 922 KAR 2:230  
 922 KAR 2:250  
 922 KAR 1:310  
 922 KAR 1:350  
 922 KAR 1:310  
 921 KAR 2:046  
 921 KAR 2:046  
 921 KAR 2:046  
 907 KAR 1:006  
 907 KAR 1:011  
 907 KAR 1:015  
 907 KAR 1:026  
 907 KAR 1:035  
 907 KAR 1:045  
 907 KAR 1:060  
 907 KAR 1:145  
 907 KAR 1:155  
 907 KAR 1:160  
 907 KAR 1:360  
 907 KAR 1:520  
 907 KAR 1:530  
 907 KAR 1:585  
 907 KAR 1:626  
 907 KAR 1:640  
 907 KAR 1:645  
 907 KAR 1:650



## KRS SECTION

## REGULATION

## KRS SECTION

## REGULATION

	907 KAR	1:655			902 KAR	20:058
	907 KAR	1:665	216B.040		902 KAR	20:008
	907 KAR	3:005			902 KAR	20:014
	907 KAR	3:030			902 KAR	20:058
205.560	907 KAR	3:110	216B.042		902 KAR	20:008
	907 KAR	1:018			902 KAR	20:014
	907 KAR	1:360			902 KAR	20:058
	907 KAR	1:560	216B.045		902 KAR	20:014
	907 KAR	1:604	215B.045-216B.055		902 KAR	20:008
	907 KAR	3:010			902 KAR	20:058
	907 KAR	3:170	216B.050		902 KAR	20:014
205.561	907 KAR	1:018	216B.055		902 KAR	20:014
205.5631	907 KAR	1:018	216B.075		902 KAR	20:008
205.5632	907 KAR	1:018			902 KAR	20:058
205.5634	907 KAR	1:018	216B.105		902 KAR	20:014
205.5636	907 KAR	1:018	216B.105-216B.131		902 KAR	20:008
205.5638	907 KAR	1:018			902 KAR	20:058
205.5639	907 KAR	1:018	216B.115		902 KAR	20:014
205.565	907 KAR	1:013	216B.120		902 KAR	20:014
205.595	921 KAR	1:410	216B.125		902 KAR	20:014
205.6312	907 KAR	1:604	216B.176		902 KAR	20:058
205.6316	907 KAR	1:018	216B.177		902 KAR	20:058
205.6322	907 KAR	1:650	216B.400		40 KAR	3:011E
205.637	907 KAR	1:013			107 KAR	2:010
205.639	907 KAR	1:013	216B.450		922 KAR	1:050
205.640	907 KAR	1:013	216B.455		900 KAR	6:030
205.641	907 KAR	1:013	216B.990		900 KAR	6:030
205.6485	907 KAR	1:604			902 KAR	20:008
205.710-205.800	921 KAR	1:410			902 KAR	20:058
205.8451	907 KAR	1:026	217.005-217.215		902 KAR	45:090
	907 KAR	3:030	217.015		907 KAR	1:018
	907 KAR	3:090	217.992		902 KAR	45:090
205.8477	907 KAR	3:090	218A.180		908 KAR	1:340
Chapter 209	906 KAR	1:100	Chapter 222		908 KAR	1:340
209.020	921 KAR	2:015	224.01-010		401 KAR	5:002
	922 KAR	1:320			401 KAR	5:026
209.030	922 KAR	3:020			401 KAR	5:029
210.370	907 KAR	1:045			401 KAR	5:030
211.005	902 KAR	45:065			401 KAR	5:031
	902 KAR	45:070			401 KAR	47:030
211.015	902 KAR	45:065	224.01-070		401 KAR	5:002
	902 KAR	45:070	224.01-400		401 KAR	5:002
211.025	902 KAR	45:065			401 KAR	5:026
	902 KAR	45:070			401 KAR	5:029
211.090	902 KAR	2:055			401 KAR	5:030
211.180	902 KAR	2:055			401 KAR	5:031
211.760	902 KAR	45:065			401 KAR	100:030
	902 KAR	45:070	224.01-405		401 KAR	100:030
214.032-214.036	902 KAR	2:055	224.01-450-224.01-465		401 KAR	100:030
214.036	922 KAR	2:100	224.01-510-224.01-532		401 KAR	100:030
214.615	201 KAR	20:070	224.10-100		401 KAR	5:005
216.2925	902 KAR	20:008			401 KAR	47:030
	902 KAR	20:014			401 KAR	52:080
216.300	922 KAR	1:310			401 KAR	63:005
216.380	907 KAR	1:013	224.10-105		401 KAR	47:030
216.510-216.595	906 KAR	1:100	224.10-110		401 KAR	47:030
216.530	902 KAR	20:008	224.16-050		401 KAR	5:005
216.557	921 KAR	2:015			401 KAR	5:026
216.750	921 KAR	2:015			401 KAR	5:029
216.860	906 KAR	1:100			401 KAR	5:030
216.865	906 KAR	1:100			401 KAR	5:031
216.935-216.939	906 KAR	1:100	224.16-060		401 KAR	5:005
216B.010	902 KAR	20:008	224.16-070		401 KAR	5:026
	902 KAR	20:014			401 KAR	5:029
	902 KAR	20:058			401 KAR	5:030
216B.010-216B.130	900 KAR	6:030			401 KAR	5:031
215B.010-216B.131	921 KAR	2:015	224.20-100		401 KAR	52:080
216B.015	902 KAR	20:008			401 KAR	63:005
	902 KAR	20:014	224.20-110		401 KAR	52:080



## KRS SECTION

## REGULATION

## KRS SECTION

## REGULATION

	401 KAR	63:005
224.20-120	401 KAR	52:080
	401 KAR	63:005
224.40-100	401 KAR	100:030
224.40-100-224.40-650	401 KAR	47:030
224.43-010-224.43-505	401 KAR	47:030
224.70-100	401 KAR	5:002
	401 KAR	5:005
	401 KAR	47:030
224.70-100-224.70-140	401 KAR	5:026
	401 KAR	5:029
	401 KAR	5:030
	401 KAR	5:031
224.70-110	401 KAR	5:005
	401 KAR	47:030
224.70-120	401 KAR	5:002
224.71-100-224.71-145	401 KAR	5:026
	401 KAR	5:029
	401 KAR	5:030
	401 KAR	5:031
224.73-100-224.73-120	401 KAR	5:026
	401 KAR	5:029
	401 KAR	5:030
	401 KAR	5:031
	401 KAR	5:002
224.99-010	401 KAR	47:030
224.99-010-224.99-030	815 KAR	35:040
227A.010	815 KAR	35:040
227A.060	815 KAR	35:040
227A.080	810 KAR	1:027
230.215	810 KAR	1:027
230.240	810 KAR	1:027
230.260	810 KAR	1:027
230.290	810 KAR	1:027
230.310	810 KAR	1:027
230.320	810 KAR	1:027
230.355	810 KAR	1:027
235.040	301 KAR	6:070
235.220	301 KAR	6:070
235.285	301 KAR	6:060
237.110	921 KAR	1:410
238.500-238.995	820 KAR	1:001
238.545	820 KAR	1:040
241.060	804 KAR	4:140
	804 KAR	4:240
	804 KAR	6:060
243:030	804 KAR	4:030
	804 KAR	4:040
	804 KAR	4:081
	804 KAR	4:220
	804 KAR	4:230
	804 KAR	4:260
	804 KAR	4:380
	804 KAR	7:041
243.033	804 KAR	4:310
	804 KAR	4:340
243.040	804 KAR	4:081
	804 KAR	4:130
	804 KAR	4:140
	804 KAR	4:160
	804 KAR	4:260
	804 KAR	4:350
	804 KAR	7:041
243.050	804 KAR	4:230
243.090	804 KAR	4:130
	804 KAR	4:140
	243 KAR	4:160
	804 KAR	4:220
	804 KAR	4:260
	804 KAR	4:340

243.155	804 KAR	4:380
243.156	804 KAR	4:380
243.200	804 KAR	4:380
	804 KAR	4:030
	804 KAR	8:050
243.210	804 KAR	4:160
	804 KAR	8:050
243.260	804 KAR	4:250
243.290	804 KAR	4:250
243.350	804 KAR	4:040
243.360	804 KAR	4:350
243.380	804 KAR	4:081
243.430	804 KAR	4:081
243.440	804 KAR	4:081
243.540	804 KAR	4:081
243.550	804 KAR	4:240
244.150	804 KAR	4:310
244.260	804 KAR	1:131
244.290	804 KAR	4:220
244.440	804 KAR	4:240
247.800-247.810	302 KAR	39:010
260.020	302 KAR	40:010
260.030	302 KAR	40:010
273.161	922 KAR	1:310
281.600	601 KAR	1:005
	601 KAR	11:040
281.730	601 KAR	1:005
281.750	601 KAR	1:005
281.880	601 KAR	1:005
Chapter 281A	601 KAR	11:040
	601 KAR	11:061
281A.160	502 KAR	10:110
294.010	808 KAR	12:002
294.020	808 KAR	12:002
	808 KAR	12:020
	808 KAR	12:065
	808 KAR	12:075
294.032	808 KAR	12:085
294.255	808 KAR	12:095
294.260	808 KAR	12:085
294.265	808 KAR	12:085
304.3-120	806 KAR	3:041
304.3-140	806 KAR	3:041
304.17A-080	806 KAR	17:180
304.17A-143	806 KAR	17:460
304.17A-200-304.17A-250	806 KAR	17:180
304.17A-320	806 KAR	17:240
304.17A.330	806 KAR	17:240
304.17A-430	806 KAR	17:180
304.17A-600-304.17A-633	806 KAR	17:460
304.17A-661	806 KAR	17:460
304.17A-669	806 KAR	17:460
304.99-020	806 KAR	3:230
309.080	907 KAR	3:030
309.130	907 KAR	3:030
311.530-311.620	201 KAR	9:350
311.550	907 KAR	1:018
311.560	907 KAR	1:018
311.720	922 KAR	1:310
	922 KAR	1:350
311A.010	202 KAR	7:010
	202 KAR	7:201
	202 KAR	7:301
311A.015	202 KAR	7:020
311A.020	202 KAR	7:020
311A.025	202 KAR	7:201
	202 KAR	7:301
	202 KAR	7:401
	202 KAR	7:801
311A.030	202 KAR	7:201



KRS SECTION	REGULATION	KRS SECTION	REGULATION
	202 KAR 7:401		201 KAR 20:225
	202 KAR 7:501		201 KAR 20:370
	202 KAR 7:510		201 KAR 20:480
311A.040	202 KAR 7:055	314.071	201 KAR 20:225
311A.055	202 KAR 7:801		201 KAR 20:370
311A.060	202 KAR 7:201	314.073	201 KAR 20:225
	202 KAR 7:301	314.091	201 KAR 20:225
311A.080	202 KAR 7:401		201 KAR 20:370
311A.095	202 KAR 7:201	314.101	201 KAR 20:110
	202 KAR 7:301	314.103	201 KAR 20:110
311A.110	202 KAR 7:201	314.111	201 KAR 20:320
	202 KAR 7:301		201 KAR 20:330
	202 KAR 7:401	314.131	201 KAR 20:320
	202 KAR 7:601		201 KAR 20:330
311A.115	202 KAR 7:601	314.142	40 KAR 3:011E
311A.120	202 KAR 7:601		107 KAR 2:010
311A.125	202 KAR 7:801		201 KAR 20:411
311A.130	202 KAR 7:301	314A.115	201 KAR 29:050
	202 KAR 7:601	Chapter 315	201 KAR 2:074
	202 KAR 7:801	315.020	908 KAR 1:340
311A.135	202 KAR 7:401	317.050	201 KAR 12:082
	202 KAR 7:462	317A.010	201 KAR 12:030
	202 KAR 7:701		201 KAR 12:120
311A.140	202 KAR 7:201	317A.020	201 KAR 12:020
	202 KAR 7:301		201 KAR 12:030
	202 KAR 7:462		201 KAR 12:080
	202 KAR 7:701	317A.050	201 KAR 12:120
311A.145	202 KAR 7:020		201 KAR 12:020
	202 KAR 7:030		201 KAR 12:025
	202 KAR 7:201		201 KAR 12:031
	202 KAR 7:301		201 KAR 12:045
311A.160	202 KAR 7:201		201 KAR 12:050
	202 KAR 7:301		201 KAR 12:055
	202 KAR 7:462		201 KAR 12:060
	202 KAR 7:701		201 KAR 12:065
311A.165	202 KAR 7:462		201 KAR 12:070
	202 KAR 7:701		201 KAR 12:080
311A.170	202 KAR 7:401		201 KAR 12:083
	202 KAR 7:462		201 KAR 12:140
	202 KAR 7:701		201 KAR 12:200
	202 KAR 7:801	317A.060	201 KAR 12:210
311A.175	202 KAR 7:462		201 KAR 12:030
	202 KAR 7:701		201 KAR 12:060
	202 KAR 7:801		201 KAR 12:065
311A.180	202 KAR 7:801		201 KAR 12:100
311A.190	202 KAR 7:501		201 KAR 12:110
	202 KAR 7:510		201 KAR 12:120
313.600	201 KAR 8:490		201 KAR 12:140
314.011	201 KAR 20:320	317A.090	201 KAR 12:150
	201 KAR 20:330		201 KAR 12:082
	201 KAR 20:390		201 KAR 12:110
	922 KAR 1:310		201 KAR 12:120
	922 KAR 1:350	317A.100	201 KAR 12:125
314.025	201 KAR 20:390		201 KAR 12:020
314.026	201 KAR 20:390		201 KAR 12:050
314.027	201 KAR 20:390	317A.130	201 KAR 12:055
314.031	201 KAR 20:110	317A.140	201 KAR 12:101
314.041	201 KAR 20:070	317B.020	201 KAR 12:083
	201 KAR 20:225		201 KAR 12:088
	201 KAR 20:370		201 KAR 12:100
	201 KAR 20:480		201 KAR 12:125
314.042	201 KAR 20:095	317B.025	201 KAR 12:140
	201 KAR 20:110		201 KAR 12:230
	201 KAR 20:225		201 KAR 12:020
	201 KAR 20:370		201 KAR 12:025
	907 KAR 3:030		201 KAR 12:031
314.051	201 KAR 20:070		201 KAR 12:055
	201 KAR 20:095		201 KAR 12:065
	201 KAR 20:110		201 KAR 12:070
			201 KAR 12:080
			201 KAR 12:083



## KRS SECTION

## REGULATION

## KRS SECTION

## REGULATION

317B.030 201 KAR 12:115  
 201 KAR 12:120  
 201 KAR 12:140  
 201 KAR 12:220  
 201 KAR 12:200  
 201 KAR 12:210  
 201 KAR 12:220  
 317B.040 201 KAR 12:050  
 201 KAR 12:055  
 201 KAR 12:220  
 318.010 815 KAR 20:020  
 815 KAR 20:110  
 318.015 815 KAR 20:020  
 318.130 815 KAR 20:020  
 815 KAR 20:110  
 318.150 815 KAR 20:020  
 815 KAR 20:110  
 318.200 815 KAR 20:020  
 319.050 907 KAR 3:030  
 319.056 907 KAR 3:030  
 319.064 907 KAR 3:030  
 319A.010 201 KAR 28:130  
 201 KAR 28:170  
 201 KAR 28:010  
 319A.010-319A.210 201 KAR 28:200  
 319A.070 201 KAR 28:020  
 319A.080 201 KAR 28:170  
 319A.090 201 KAR 28:030  
 319A.100 201 KAR 28:060  
 201 KAR 28:121  
 201 KAR 28:130  
 201 KAR 28:180  
 319A.110 201 KAR 28:020  
 201 KAR 28:060  
 319A.120 201 KAR 28:020  
 201 KAR 28:070  
 201 KAR 28:121  
 319A.130 201 KAR 28:020  
 201 KAR 28:060  
 319A.140 201 KAR 28:020  
 201 KAR 28:121  
 319A.160 201 KAR 28:140  
 201 KAR 28:200  
 319A.170 201 KAR 28:170  
 319A.190 201 KAR 28:140  
 320.310 201 KAR 5:100  
 322.060 201 KAR 18:040  
 322.090 201 KAR 18:040  
 322.100 201 KAR 18:040  
 322.110 201 KAR 18:040  
 322.120 201 KAR 18:040  
 322.160 201 KAR 18:040  
 322.170 201 KAR 18:040  
 322.290 201 KAR 18:099  
 201 KAR 18:220  
 201 KAR 18:221  
 201 KAR 18:099  
 322.340 201 KAR 1:190  
 325.261 201 KAR 1:190  
 325.270 201 KAR 1:190  
 329A.025 201 KAR 41:030  
 201 KAR 41:040  
 329A.035 201 KAR 41:030  
 329A.040 201 KAR 41:040  
 329A.045 201 KAR 41:040  
 335.080 907 KAR 3:030  
 335.100 907 KAR 3:030  
 335.300 201 KAR 32:010  
 201 KAR 32:025  
 907 KAR 3:030

335.332 907 KAR 3:030  
 335.340 201 KAR 32:060  
 335.500 907 KAR 3:030  
 335.505 907 KAR 3:030  
 Chapter 338 803 KAR 2:304  
 803 KAR 2:307  
 803 KAR 2:311  
 803 KAR 2:317  
 803 KAR 2:320  
 803 KAR 2:320  
 803 KAR 2:180  
 803 KAR 2:180  
 787 KAR 1:090  
 907 KAR 1:011  
 787 KAR 1:090  
 803 KAR 25:010  
 803 KAR 25:175  
 803 KAR 25:125  
 803 KAR 25:010  
 803 KAR 25:010  
 803 KAR 25:010  
 803 KAR 25:010  
 803 KAR 25:010  
 803 KAR 25:125  
 803 KAR 25:175  
 803 KAR 25:010  
 803 KAR 25:010  
 803 KAR 25:010  
 803 KAR 25:125  
 803 KAR 25:010  
 107 KAR 2:010  
 405 KAR 7:001  
 405 KAR 8:001  
 405 KAR 10:001  
 405 KAR 12:001  
 405 KAR 16:001  
 405 KAR 18:001  
 405 KAR 20:001  
 405 KAR 24:001  
 805 KAR 1:190  
 805 KAR 1:190  
 40 KAR 2:340  
 40 KAR 2:340  
 40 KAR 2:161  
 40 KAR 2:161  
 40 KAR 2:161  
 40 KAR 2:161  
 40 KAR 2:161  
 40 KAR 2:161  
 367.97501-367.97537 40 KAR 2:161  
 368.010-368.100 808 KAR 9:040  
 393.010 20 KAR 1:040  
 393.040 20 KAR 1:040  
 393.110 20 KAR 1:040  
 20 KAR 1:080  
 20 KAR 1:090  
 20 KAR 1:100  
 20 KAR 1:090  
 20 KAR 1:040  
 20 KAR 1:040  
 921 KAR 1:410  
 921 KAR 1:410  
 921 KAR 1:410  
 921 KAR 1:410  
 921 KAR 1:410  
 921 KAR 1:410  
 907 KAR 3:170  
 921 KAR 1:410  
 921 KAR 1:410  
 422.317  
 427.120  
 427.125



KRS SECTION	REGULATION	KRS SECTION	REGULATION
431.600	922 KAR 1:330	803 KAR	2:307
434.840-434.860	907 KAR 3:170	803 KAR	2:311
503.110	922 KAR 1:310	803 KAR	2:317
	922 KAR 1:330	803 KAR	2:320
Chapter 510	40 KAR 3:011E	902 KAR	45:065
	107 KAR 2:010	902 KAR	45:070
Chapter 514	921 KAR 2:015	405 KAR	7:001
Chapters 600-645	505 KAR 1:110	405 KAR	8:001
	505 KAR 1:120	405 KAR	10:001
	505 KAR 1:130	405 KAR	12:001
	505 KAR 1:140	405 KAR	16:001
600.010	922 KAR 1:330	405 KAR	18:001
600.020	922 KAR 1:050	405 KAR	20:001
	922 KAR 1:310	405 KAR	24:001
	922 KAR 1:320	11 KAR	3:100
	922 KAR 1:330	11 KAR	4:040
	922 KAR 1:350	11 KAR	18:010
	922 KAR 1:480	15 KAR	1:040
	922 KAR 2:100	911 KAR	2:120
	922 KAR 3:020	911 KAR	2:130
605.090	922 KAR 1:310	911 KAR	2:200
	922 KAR 1:320	401 KAR	5:002
	922 KAR 1:330	401 KAR	5:029
605.090-605.110	922 KAR 1:350	401 KAR	10:001
605.115	907 KAR 1:035	805 KAR	1:190
605.120	921 KAR 2:046	906 KAR	1:120
605.120-605.130	922 KAR 1:350	907 KAR	1:011
605.130	922 KAR 1:330	907 KAR	1:013
605.160	922 KAR 1:350	907 KAR	1:015
610.110	922 KAR 1:310	907 KAR	1:018
	922 KAR 1:330	907 KAR	1:022
	922 KAR 1:500	907 KAR	1:023
615.010-615.990	922 KAR 1:310	907 KAR	1:031
620.010-620.050	922 KAR 1:330	907 KAR	1:035
620.020	922 KAR 1:050	907 KAR	1:065
	922 KAR 1:310	907 KAR	1:145
	922 KAR 1:500	907 KAR	1:155
620.030	922 KAR 1:310	907 KAR	1:160
	922 KAR 2:100	907 KAR	1:360
620.050	922 KAR 1:350	907 KAR	1:604
	922 KAR 1:480	907 KAR	1:626
620.140	922 KAR 1:310	907 KAR	1:645
	922 KAR 1:500	907 KAR	1:665
620.170	922 KAR 3:020	907 KAR	3:030
620.230	922 KAR 1:320	907 KAR	3:090
620.350	922 KAR 1:330	907 KAR	3:170
620.990	922 KAR 1:330	908 KAR	1:340
Chapter 625	922 KAR 1:350	200 KAR	5:317
625.040	922 KAR 1:310	902 KAR	2:055
625.043	922 KAR 1:310	907 KAR	1:011
7 C.F.R.	302 KAR 40:010	920 KAR	1:060
	405 KAR 7:001	921 KAR	1:410
	405 KAR 8:001	922 KAR	1:050
	405 KAR 10:001	922 KAR	1:310
	405 KAR 16:001	922 KAR	1:320
	405 KAR 18:001	922 KAR	1:350
	405 KAR 20:001	922 KAR	1:480
	921 KAR 3:035	922 KAR	1:500
	921 KAR 3:045	922 KAR	3:020
13 C.F.R.	200 KAR 5:076	200 KAR	5:317
20 C.F.R.	921 KAR 2:015	502 KAR	10:110
21 C.F.R.	908 KAR 1:340	601 KAR	1:005
23 C.F.R.	601 KAR 1:018	601 KAR	1:018
	603 KAR 5:066	601 KAR	11:040
	603 KAR 5:070	601 KAR	11:061
26 C.F.R.	105 KAR 1:380	805 KAR	1:190
28 C.F.R.	503 KAR 1:160	301 KAR	2:221
29 C.F.R.	803 KAR 2:180	301 KAR	2:222
	803 KAR 2:304	401 KAR	47:030

## KRS SECTION

## REGULATION

## KRS SECTION

## REGULATION

8 U.S.C.

907 KAR 1:011

921 KAR 2:015

9 U.S.C.

201 KAR 6:100

15 U.S.C.

401 KAR 5:002

806 KAR 3:230

921 KAR 1:410

20 U.S.C.

11 KAR 3:100

11 KAR 4:040

11 KAR 15:010

11 KAR 18:010

15 KAR 1:040

703 KAR 5:001

703 KAR 5:020

703 KAR 5:120

703 KAR 5:130

703 KAR 5:160

911 KAR 2:120

911 KAR 2:130

911 KAR 2:200

922 KAR 1:500

26 U.S.C.

11 KAR 17:060

105 KAR 1:380

29 U.S.C.

922 KAR 1:320

30 U.S.C.

405 KAR 7:001

405 KAR 8:001

405 KAR 10:001

405 KAR 12:001

405 KAR 16:001

405 KAR 18:001

405 KAR 20:001

405 KAR 24:001

33 U.S.C.

401 KAR 5:002

38 U.S.C.

907 KAR 1:011

907 KAR 1:640

907 KAR 1:645

907 KAR 1:655

907 KAR 1:665

42 U.S.C.

31 KAR 6:010

31 KAR 6:020

200 KAR 5:317

401 KAR 5:002

401 KAR 52:080

401 KAR 63:005

503 KAR 1:160

907 KAR 1:006

907 KAR 1:011

907 KAR 1:013

907 KAR 1:018

907 KAR 1:022

907 KAR 1:023

907 KAR 1:026

907 KAR 1:031

907 KAR 1:035

907 KAR 1:065

907 KAR 1:145

907 KAR 1:155

907 KAR 1:160

907 KAR 1:340

907 KAR 1:520

907 KAR 1:530

907 KAR 1:585

907 KAR 1:604

907 KAR 1:626

907 KAR 1:640

907 KAR 1:645

907 KAR 1:665

907 KAR 1:805

907 KAR 3:030

907 KAR 3:090

921 KAR 1:410

921 KAR 2:046

921 KAR 2:491

922 KAR 1:050

922 KAR 1:310

922 KAR 1:320

922 KAR 1:330

922 KAR 1:350

922 KAR 1:500

922 KAR 3:020

47 U.S.C.

201 KAR 6:100

49 U.S.C.

601 KAR 9:135

603 KAR 5:070

Pub.L. 107-171

921 KAR 3:035

Pub.L. 108-36

922 KAR 1:330

922 KAR 1:480

2000 Acts ch. 549

902 KAR 10:060

2003 Acts ch. 52

503 KAR 3:050

EO 2003-064

922 KAR 3:020



# SUBJECT INDEX

## ACCOUNTANCY, BOARD OF

Computer-based examination section, application, procedures; 201  
KAR 1:190

## ADOPTIONS

(See Child Welfare)

## AGRICULTURE, DEPARTMENT OF

Organic Agricultural Product Certification

Certification of production, processing, handling operations; 302  
KAR 40:010

## AGRITOURISM

Agritourism; 302 KAR 39:010

## AIR QUALITY

Permits, Registrations, and Prohibitory Rules

Regulatory limit on potential to emit; 401 KAR 52:080

General Standards of Performance

Open burning; 401 KAR 63:005

## ALCOHOLIC BEVERAGE CONTROL BOARD

ABC Board

Procedure; 804 KAR 6:010

Advertising Distilled Spirits and Wine

Repealer; 804 KAR 1:131

Business, Employees, Conduct of

Minors; 804 KAR 5:070

Licensing

Beer storage; 804 KAR 4:130

Beer transporter; 804 KAR 4:160

Brand registration; 804 KAR 4:240

Brew-on-premises license; 804 KAR 4:340

Caterer's license; 804 KAR 4:310

Distributors' storage; 804 KAR 4:140

Extended hours supplemental licenses; 804 KAR 4:230

Farm and winery; 804 KAR 4:380

Licenses, special temporary; 804 KAR 4:250

Nonresident; 804 KAR 4:030

Out-of-state brewers' licenses; 804 KAR 4:350

Repealer; 804 KAR 4:081

Riverboats; 804 KAR 4:220

Storage, bottling house; 804 KAR 4:040

Track license; 804 KAR 4:260

Quotas

Retail limit; 804 KAR 9:010

Retail Premises

Repealer; 804 KAR 7:041

Transportation of Alcoholic Beverages

Vehicles' signs; 804 KAR 8:050

## AQUATIC ORGANISMS

(See Fish and Wildlife Resources)

## ATTORNEY GENERAL

Consumer Protection

Contact lens seller annual registration, verification requirements; 40 KAR 2:340

Repealer; 40 KAR 2:161

Sexual Abuse Victims, Medical Examination of

Repealer; 40 KAR 3:011E

## BINGO

(See Charitable Gaming)

## BLOCK GRANTS

(See Community Based Services)

## BOATING

(See Fish and Wildlife Resources)

## BODY PIERCING

(See Public Health)

## BUILDING CODE

(See Kentucky Building Code)

## CHARITABLE GAMING

Bingo standards; 820 KAR 1:040

Definitions; 820 KAR 1:001

## CHILD WELFARE

Adoption assistance, approval of; 922 KAR 1:050

Child-placing agencies, standards for; 922 KAR 1:310

Child protective services; 922 KAR 1:330

Family preparation; 922 KAR 1:350

Service appeals; 922 KAR 1:320

## CHILDREN WITH SPECIAL HEALTH CARE NEEDS COMMISSION

Early Intervention System

Assessment, service planning; 911 KAR 2:130

Coverage, payment, program services; 911 KAR 2:200

Evaluation, eligibility; 911 KAR 1:120

Program assessment, service planning; 911 KAR 2:130

Program evaluation and eligibility; 911 KAR 2:120

## COMMERCIAL MOBILE RADIO SERVICE EMERGENCY TELECOMMUNICATIONS BOARD

PSAP Phase II certification; 202 KAR 6:100

## COMMONWEALTH MERIT SCHOLARSHIP PROGRAM

(See Higher Education Assistance Authority)

## COMMUNICABLE DISEASES

(See Public Health)

## COMMUNITY BASED SERVICES

Family Support

Food Stamp Program

Certification process; 921 KAR 3:035

Issuance procedures; 921 KAR 3:045

K-TAP, Kentucky Works, Welfare to Work, State Supplementa-  
tion

Adverse action conditions; 921 KAR 2:046

Repealer; 921 KAR 2:491

Supplemental programs, aged, blind, disabled; 921 KAR  
2:015

Policy Development

Commonwealth Child Care Credential; 922 KAR 2:250

Director's credential; 922 KAR 2:230

Educational and training vouchers; 922 KAR 1:500

Protection and Permanency

Block Grants

Services, eligibility; 922 KAR 3:020

Day Care

Family child care homes, certification; 922 KAR 2:100

## CONSUMER PROTECTION

(See Attorney General)



## SUBJECT INDEX

### **COSMETICS**

(See Hairdressers or Public Health)

### **COSMETOLOGISTS**

(See Hairdressers, Cosmetologists)

### **CRIME VICTIMS COMPENSATION BOARD**

Payment schedule of reported victims; 107 KAR 2:010

### **CRIMINAL JUSTICE TRAINING**

(See also Justice Cabinet)

General Training Provision

Telecommunications academy

Graduation requirements, records; 503 KAR 3:050

Non-CJIS; 503 KAR 3:070

Law Enforcement Council

Career Development Program; 501 KAR 1:170

Graduation requirements, records; 503 KAR 1:160

### **DAY CARE**

(See Community Based Services)

### **DENTISTRY, BOARD OF**

Expungement of records; 201 KAR 8:490

### **DRIVER TRAINING**

(See State Police and Justice Cabinet)

### **EARLY CHILDHOOD DEVELOPMENT SCHOLARSHIP PROGRAM**

(See Higher Education Assistance Authority)

### **EDUCATION, ARTS, AND HUMANITIES CABINET**

(See also Higher Education Assistance Authority; Postsecondary Education)

Learning Programs Development

Learning support services; 704 KAR Chapter 7

Learning Results Services

Assessment and Accountability; 703 KAR Chapter 5

### **EDUCATION PROFESSIONAL STANDARDS BOARD**

Administrative Certificates

Directors, assistant directors of pupil personnel, professional certificate; 16 KAR 3:030

Repealer; 16 KAR 3:054

School principal, all grades, professional certificate for instructional leadership; 16 KAR 3:050

School superintendent certification; 16 KAR 3:010

Special education director; 16 KAR 3:040

Supervisor of instruction certification; 16 KAR 3:020

Assessment

Examination prerequisites for principal certification; 16 KAR 6:030

Educator Preparation

Repealer; 16 KAR 5:009

General Administration

Teachers' National Certification Incentive Trust Fund; 16 KAR 1:040

Internship

Kentucky Teacher Internship Program; 16 KAR 7:010

### **EDUCATIONAL SAVINGS PLAN TRUST**

(See Higher Education Assistance Authority)

### **ELECTIONS, STATE BOARD**

(See Voting)

Help America Vote Act 2002

Provisional voting; 31 KAR 6:020

State-based administrative complaint procedure; 31 KAR 6:010

### **ELECTRICAL INSPECTORS**

(See Housing, Buildings and Construction)

### **ELEVATOR SAFETY**

(See Housing, Buildings and Construction)

### **EMERGENCY MEDICAL SERVICES BOARD**

Advisory opinions; 202 KAR 7:055

Air ambulance services; 202 KAR 7:510

Ambulance providers, medical first response agencies; 202 KAR 7:501

Board organization; 202 KAR 7:020

Definitions; 202 KAR 7:010

EMT; 202 KAR 7:301

Fees; 202 KAR 7:030

First responders; 202 KAR 7:201

Medical directors; 202 KAR 7:801

Paramedics; 202 KAR 7:401

Repealer; 202 KAR 7:462

Training, education, continuing education; 202 KAR 7:601

### **EMPLOYMENT SERVICES (WORKFORCE DEVELOPMENT)**

Unemployment Insurance

Unemployed worker's reporting requirements; 787 KAR 1:090

### **ENGINEERS, LAND SURVEYORS, BOARD OF**

Administrative hearings; 201 KAR 18:220

Fees, 201 KAR 18:040

Repealer; 201 KAR 18:099; 201 KAR 18:221

### **ENVIRONMENTAL PROTECTION DEPARTMENT**

(See Natural Resources, Environmental Protection)

Environmental Protection

Remediation requirements; 401 KAR 100:030

### **ESTHETICIANS**

(See Hairdressers, Cosmetologists)

### **ETHICS COMMISSION**

Executive Branch Ethics Commission; 9 KAR Chapter 1

### **EXECUTIVE BRANCH ETHICS COMMISSION**

Registration, expenditure statements, financial transactions, termination forms, handbooks, enforcement; 9 KAR 1:040

### **EXOTIC WILDLIFE**

(See Fish and Wildlife Resources)

### **FAMILIES AND CHILDREN (CABINET)**

Administration

Protection of human subjects; 920 KAR 1:060

Community Based Services

Protection and Permanency

Block Grants; 922 KAR Chapter 3

Child Welfare; 922 KAR Chapter 1

Day care; 922 KAR Chapter 2

Family Support

Food Stamp Program; 921 KAR Chapter 3

K-TAP, Kentucky Works, Welfare to Work, State Supplementation; 921 KAR Chapter 2

### **FARMERS MARKETS**

(See Public Health)

### **FINANCE, ADMINISTRATION CABINET**

Purchasing; 200 KAR Chapter 5

### **FINANCIAL INSTITUTIONS, DEPARTMENT OF**

Check Cashing

Electronic fund transfer from customer accounts, limitation; 808 KAR 9:040

Mortgage Loan Companies, Brokers

Broker residence office, requirements of; 808 KAR 12:075



## SUBJECT INDEX

Continuing education requirements; 808 KAR 12:095  
Definitions; 808 KAR 12:002  
Disclosure, lender/broker, less than 5 loans per year; 808 KAR 12:065  
Exemption claims; 808 KAR 12:020  
Registration, loan officer/broker; 808 KAR 12:085  
Regulation of charges for services rendered in processing, closing real estate loans to consumers; 808 KAR 12:050

### FISH AND WILDLIFE RESOURCES, DEPARTMENT OF

#### Fish

Fishing limits; 301 KAR 1:201  
Free fishing days; 301 KAR 1:210  
Propagation of aquatic organisms; 301 KAR 1:115  
Reciprocal agreements regarding fishing; 301 KAR 1:220  
Repealer; 301 KAR 1:301  
Snagging; 301 KAR 1:020

#### Game

Captive cervids, transportation, holding of; 301 KAR 2:083  
Deer hunting on WMAs; 301 KAR 2:178  
Deer hunting seasons, requirements; 301 KAR 2:172  
Dove, wood duck, teal, migratory game bird hunting; 301 KAR 2:225  
Exotic wildlife, transportation, holding of; 301 KAR 2:082  
Native wildlife, transportation, holding of; 301 KAR 2:081  
Shooting preserves, foxhound training enclosures; 301 KAR 2:041  
Waterfowl hunting requirements; 301 KAR 2:222  
Waterfowl seasons, limits; 301 KAR 2:221  
Wild turkey, fall hunting; 301 KAR 2:144

#### Hunting and Fishing

Fees, license, tag, permit; 301 KAR 3:022  
Year-round seasons, unprotected wildlife; 301 KAR 3:030

#### Water Patrol

Safe boating certification; 301 KAR 6:060

#### Wildlife

Peabody WMA, use requirements, restriction; 301 KAR 4:100

### FOOD, COSMETICS (HEALTH SERVICES)

(See Public Health)

### FOOD STAMP PROGRAM

(See Community Based Services)

### GAME

(See Fish and Wildlife Resources)

### GRANT PROGRAMS

(See Higher Education Assistance Authority)

### HAIRDRESSERS, COSMETOLOGISTS

Apprentices; 201 KAR 12:045  
Continuing education requirements for active, inactive license, temporary waiver of requirements; 201 KAR 12:210  
Course of instruction, schools; 201 KAR 12:082  
Course of instruction, esthetics; 201 KAR 12:088  
Educational requirements; 201 KAR 12:083  
Esthetic fee requirements; 201 KAR 12:220  
Esthetics salons, requirements; 201 KAR 12:070  
Equipment, school; 201 KAR 12:140  
Equipment sanitation; 201 KAR 12:101  
Ethics; 201 KAR 12:230  
Examination; 201 KAR 12:020  
Examination failure; 201 KAR 12:025  
Identification, public; 201 KAR 12:080  
Inspections; 201 KAR 12:060; 201 KAR 12:065  
License; 201 KAR 12:030  
License, instructor's; 201 KAR 12:055  
License, dual cosmetologist/esthetics instructor; 201 KAR 12:240  
License posting, replacement; 201 KAR 12:031

License renewal, continuing education; 201 KAR 12:200  
Reciprocity; 201 KAR 12:050  
Records, school; 201 KAR 12:150  
Sanitation standards; 201 KAR 12:100  
School faculty; 201 KAR 12:120  
School license; 201 KAR 12:110  
School requirements, esthetics course; 201 KAR 12:115  
Student regulations; 201 KAR 12:125

### HEALTH SERVICES (CABINET)

#### Administration

Certificate of need expenditure minimums; 900 KAR 6:030  
Children with Special Health Care Needs Commission  
Early Intervention System; 911 KAR Chapter 2  
Inspector General; 906 KAR Chapter 1  
Medicaid Services  
Services; 907 KAR Chapter 1  
Public Health  
Food and cosmetics; 902 KAR Chapter 45  
Health services, facilities; 902 KAR Chapter 20  
Communicable diseases; 902 KAR Chapter 2

### HELP AMERICA VOTE ACT 2002

(See Elections, State Board of and Voting)

### HERITAGE COUNCIL

#### Military Heritage Commission

Officers and meetings; 202 KAR 8:020  
Nomination process heritage designation; 202 KAR 8:030

### HIGHER EDUCATION ASSISTANCE AUTHORITY

#### Authority

Educational institution participation requirements; 11 KAR 4:040  
Commonwealth Merit Scholarship Program  
Definitions; 11 KAR 15:010  
Early Childhood Development Scholarship Program  
Applicant selection process; 11 KAR 16:010  
Educational Savings Plan Trust  
Cancellation, partial withdrawal, refund payment; 11 KAR 12:060

#### Grant Programs

CAP grant award determination procedure; 11 KAR 5:145  
CAP grant student eligibility; 11 KAR 5:034  
Definitions; 11 KAR 5:001  
Disbursement procedures; 11 KAR 5:160  
KTG award determination procedure; 11 KAR 5:140  
Student application; 11 KAR 5:130

#### Kentucky Affordable Prepaid Tuition Plan (KAPT)

Administrative fees; 11 KAR 17:100  
Amendment of contract; 11 KAR 17:060  
Applying for prepaid tuition contract; 11 KAR 17:040  
Contract prices, payments, default; 11 KAR 17:050  
Definitions; 11 KAR 17:010  
Grievance procedure; 11 KAR 17:110  
Refunds, transfers; 11 KAR 17:090  
Terminating contract; 11 KAR 17:080  
Using contract benefits; 11 KAR 17:070

#### Kentucky Loan Program

Administrative wage garnishment; 11 KAR 3:100

#### Osteopathic Medicine Scholarship Program

Application of payments; 11 KAR 14:060

#### Robert C Byrd Honors Scholarship Program

Program; 11 KAR 18:010

#### Teacher Scholarship Loan Program

Scholarships; 11 KAR 8:030

#### Work Study Program

Program; 11 KAR 6:010



## SUBJECT INDEX

### HIGHER EDUCATION STUDENT LOAN CORPORATION

Insured student loans by corporation, eligibility; 15 KAR 1:040

### HIGHWAYS

#### Traffic

Motor vehicle dimension limits; 603 KAR 5:070

Weight (mass) limits for trucks; 603 KAR 5:066

### HOSPITALS, INSTITUTIONS

(See Medicaid or Public Health)

### HOUSING, BUILDINGS AND CONSTRUCTION

#### Building Code

Kentucky Building Code/2002; 815 KAR 7:120

#### Electrical inspectors

Licensing, electrical contractors, electricians, master electricians; 815 KAR 35:040

#### Elevator safety

Passenger elevators annual inspection; 815 KAR 4:010

#### Plumbing

Parts or materials list; 815 KAR 20:020

Traps, cleanouts; 815 KAR 20:110

### HUNTING AND FISHING

(See Fish and Wildlife Resources)

### INCOME TAX

(See Taxation)

### INSPECTOR GENERAL (HEALTH SERVICES)

Informal dispute resolution; 906 KAR 1:120

### INSURANCE, DEPARTMENT OF

#### Health Insurance Contracts

Autism benefits for children, requirements; 806 KAR 17:460

Data reporting requirements; 806 KAR 17:240

Standard health benefit plan, comparison format; 806 KAR 17:180

#### Authorization of Insurers, General Requirements

Customer information, safeguarding standards; 806 KAR 3:230

Repealer; 806 KAR 3:041

### JUSTICE CABINET

#### Criminal Justice Training

Law Enforcement Council; 503 KAR Chapter 1

General training provision; 503 KAR Chapter 3

#### Juvenile Justice

Child welfare; 505 KAR Chapter 1

#### State Police

Driver training; 502 KAR Chapter 10

### JUVENILE JUSTICE, DEPARTMENT OF

#### Child Welfare

Definitions; 505 KAR 1:010

Department policies and procedures manual

Detention services; 505 KAR 1:140

Health and safety services; 505 KAR 1:120

Juvenile services in community; 505 KAR 1:130

Program services; 505 KAR 1:110

#### Local juvenile delinquency prevention councils

Community Juvenile Justice Partnership Grant Program; 505 KAR 1:070

Formation procedure; 505 KAR 1:050

Operation and duties; 505 KAR 1:060

### K-TAP, KENTUCKY WORKS, WELFARE TO WORK, STATE SUPPLEMENTATION

(See Community Based Services)

### KENTUCKY AFFORDABLE PREPAID TUITION PLAN (KAPT)

(See Higher Education Assistance Authority)

### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

(See Higher Education Assistance Authority)

### KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION

(See Higher Education Student Loan Corporation)

### KENTUCKY LOAN PROGRAM

(See Higher Education Assistance Authority)

### LABOR CABINET

Occupational Safety and Health; 803 KAR Chapter 2

Workers' claims; 803 KAR Chapter 25

### LAW ENFORCEMENT COUNCIL

(See Criminal Justice Training and Justice Cabinet)

Peace officer professional standards; 503 KAR 1:140

### LEARNING PROGRAMS DEVELOPMENT (EDUCATION)

#### Learning Support Services

Repeater; 704 KAR 7:061

Student discipline guidelines; 704 KAR 7:050

### LEARNING RESULTS SERVICES, BUREAU (EDUCATION)

#### Assessment and Accountability

Commonwealth Accountability Testing System administration procedures; 703 KAR 5:160

Definitions; 703 KAR 5:001

Formula for determining school accountability; 703 KAR 5:020

Inclusion of special populations in state-required programs, procedures; 703 KAR 5:070

School assistance, scholastic audit guidelines; 703 KAR 5:120

School district accountability; 703 KAR 5:130

### MARRIAGE AND FAMILY THERAPISTS, STATE BOARD

Associate; 201 KAR 32:025

Continuing education requirements; 201 KAR 32:060

Definitions; 201 KAR 32:010

### MEDICAID SERVICES

#### Payment and Services

Acquired brain injury services; 907 KAR 3:090

Community mental health center substance abuse services; 907 KAR 3:110

IMPACT Plus services, coverage, payments; 907 KAR 3:030

Physician services, reimbursement; 907 KAR 3:010

Telehealth services; reimbursement; 907 KAR 3:170

#### Services

Adults with chronic mental illness, targeted case management services, payments for; 907 KAR 1:520

Ambulance transportation; 907 KAR 1:060

Benefits, Titles XIX, XVIII, coverage, payment; 907 KAR 1:006

Breast, cervical cancer, eligibility; 907 KAR 1:805

Community living services, payments for supports; 907 KAR 1:155

Community living services, supports for; 907 KAR 1:145

Dental services; 907 KAR 1:026

Dental services, reimbursement; 907 KAR 1:626

Drug reimbursement; 907 KAR 1:018

Estate recovery; 907 KAR 1:585

Home and community based waiver services; 907 KAR 1:160

Home and community based waiver services, reimbursement for; 907 KAR 1:170

Home health services, payments for; 907 KAR 1:031

Hospice services, reimbursement; 907 KAR 1:340

Hospital inpatient services, payments for; 907 KAR 1:013

Hospital outpatient services, payment for; 907 KAR 1:015



## SUBJECT INDEX

Income Standards; 907 KAR 1:640  
Mental health center, payments for services; 907 KAR 1:045  
Nursing facility, intermediate care facility, mentally retarded, developmentally disabled services; 907 KAR 1:022  
Payments for early periodic screening, diagnosis, treatment, and special; 907 KAR 1:035  
Preventive, remedial public health services; 907 KAR 1:360  
Price-based nursing facility services, payments; 907 KAR 1:065  
Recipient cost-sharing; 907 KAR 1:604  
Resource standards; 907 KAR 1:645  
Selected therapies as ancillary services in nursing facilities, review and approval; 907 KAR 1:023  
Severely emotionally disturbed children, targeted case management services, payments for; 907 KAR 1:530  
Special income requirements, hospice, home community based services; 907 KAR 1:665  
Spousal impoverishment, nursing facility requirements; 907 KAR 1:655  
Technical eligibility requirements; 907 KAR 1:011  
Trust, transferred resource requirements; 907 KAR 1:650

### **MEDICAL LICENSURE, BOARD OF** Expungement; 201 KAR 9:350

### **MENTAL HEALTH AND MENTAL RETARDATION SERVICES** Substance Abuse Narcotic treatment programs; 908 KAR 1:340

### **MILITARY HERITAGE COMMISSION** (See Heritage Council)

### **MINES AND MINERALS** Oil and Gas Gathering lines; 805 KAR 1:190

### **MORTGAGE LOAN COMPANIES, BROKERS** (See Financial Institutions)

### **MOTOR CARRIERS** (See Vehicle Regulation)

### **MOTOR VEHICLE COMMISSION** Commission Temporary off-site sale, display event; 605 KAR 1:040

### **MOTOR VEHICLE TAX** (See Vehicle Regulation)

### **MUSSELL SHELL HARVESTING** (See Fish and Wildlife Resources)

### **NAIL TECHNICIANS** (See Hairdressers and Cosmetologists)

### **NATURAL RESOURCES, ENVIRONMENTAL PROTECTION** Environmental Protection Department Air quality; 401 KAR Chapter 52 Environmental protection; 401 KAR Chapter 100 Solid waste facilities; 401 KAR Chapter 47 Water quality; 401 KAR Chapter 5 Surface mining reclamation, enforcement; 405 KAR Chapter 5

### **NURSING, BOARD OF** Applications, licensure, registration; 201 KAR 20:370 Faculty for prelicensure registered nurse, practical nurse programs; 201 KAR 20:310 Foreign nursing schools, licensure of graduates; 201 KAR 20:480 Inactive nurse licensure status; 201 KAR 20:095 Licensure by endorsement; 201 KAR 20:110 Licensure by examination; 201 KAR 20:070 Nursing Incentive Scholarship Fund; 201 KAR 20:390

Prelicensure programs, organization, administration standards; 201 KAR 20:260  
Practical nurse programs, prelicensure curriculum standards; 201 KAR 20:330  
Registered nurse programs, prelicensure curriculum standards; 201 KAR 20:320  
Reinstatement of license; 201 KAR 20:225  
Sexual Assault Nurse Examiner Program, standards, credential requirements; 201 KAR 20:411

### **OCCUPATIONAL SAFETY, HEALTH (LABOR CABINET)**

Air contaminants; 803 KAR 2:320  
Exit routes, emergency action, fire prevention plans; 803 KAR 2:304  
Fire protection; 803 KAR 2:311  
Hazardous materials; 803 KAR 2:307  
Recordkeeping, statistics; 803 KAR 2:180  
Special industries; 803 KAR 2:317

### **OCCUPATIONAL THERAPY, BOARD OF**

Continuing competence; 201 KAR 28:200  
Deep physical agent modalities; 201 KAR 28:170  
Definitions, abbreviations; 201 KAR 28:010  
Examination; 201 KAR 28:070  
General provisions; 201 KAR 28:020  
Licensure requirements; 201 KAR 28:060  
Short-term practice, persons practicing under KRS 319A.090(1)(e); 201 KAR 28:030  
Supervision, assistants, aides, students, temporary permit holders; 201 KAR 28:130  
Repealer; 201 KAR 28:051, 201 KAR 28:121  
Temporary permits; 201 KAR 28:180  
Unprofessional conduct, code of ethics; 201 KAR 28:140

### **OIL AND GAS** (See Mines and Minerals)

### **OPTOMETRIC EXAMINERS, BOARD OF** Expungement; 201 KAR 5:100 Licensure application, endorsement; 201 KAR 5:010

### **OSTEOPATHIC MEDICINE SCHOLARSHIP PROGRAM** (See Higher Education Assistance Authority)

### **PHARMACY BOARD** Pharmacy services, hospitals, organized health care facilities; 201 KAR 2:074

### **PLUMBING** (See Housing, Buildings and Construction)

### **PREPAID TUITION PLAN (KAPT)** (See Higher Education Assistance Authority) Kentucky Affordable Prepaid Tuition Plan; 11 KAR Chapter 17

### **PRIVATE INVESTIGATORS BOARD** Code of professional practice and conduct; 201 KAR 41:050 Examination; 201 KAR 41:030 Fees, 201 KAR 41:040

### **PROPRIETARY EDUCATION, BOARD OF** Commercial driver license training school Application, school license; 201 KAR 40:050 Application, license renewal for school; 201 KAR 40:060 Complaint procedure against agents, schools, uncredentialed agents, uncredentialed schools; 201 KAR 40:090 Curriculum; 201 KAR 40:040 Facility standards; 201 KAR 40:100 Instructor, agent application, renewals; 201 KAR 40:070



## SUBJECT INDEX

Student records maintenance, student fee schedule, contracts, agreements involving licensed schools, advertising, solicitation of students by school; 201 KAR 40:080

### **PUBLIC HEALTH (HEALTH SERVICES)**

#### **Communicable Diseases**

Immunization data reporting, exchange; 902 KAR 2:055

#### **Food and Cosmetics**

Body piercing; 902 KAR 45:070

Farmers markets; 902 KAR 45:090

Tattooing; 902 KAR 45:065

#### **Health Services, Facilities**

License procedures, fee schedule; 902 KAR 20:008

Previous license application, denial or revocation; 902 KAR 20:014

Primary care center, operation, services; 902 KAR 20:058

### **PUBLIC PROTECTION AND REGULATION CABINET**

#### **Alcoholic Beverage Control Board**

Advertising distilled spirits and wine; 804 KAR Chapter 1

#### **Financial Institutions**

Check cashing; 808 KAR 9:040

Mortgage Loan Companies, Brokers; 808 KAR Chapter 12

#### **Housing, Buildings and Construction**

Electrical inspectors; 815 KAR Chapter 35

#### **Insurance**

Health insurance contracts; 806 KAR Chapter 17

#### **Mines and Minerals**

Oil and gas; 805 KAR Chapter 1

### **PURCHASING**

Bidding, general, special conditions; 200 KAR 5:313

Competitive sealed bidding; 200 KAR 5:306

Contract modifications; 200 KAR 5:311

Contract termination; 200 KAR 5:312

Contracts, competitively negotiated; 200 KAR 5:307

Cost principles; 200 KAR 5:317

Delegation of authority; 200 KAR 5:302

Disciplinary action, failure to perform; 200 KAR 5:315

Disclosure, contractor's financial records, information to certain governmental entities; 200 KAR 5:314

Kentucky-made wood products, consideration to use; 200 KAR 5:325

Legal documents; 200 KAR 5:015

Multiple contracts; 200 KAR 5:310

Noncompetitive negotiations; 200 KAR 5:309

Performance bonds, forms, payments; 200 KAR 5:305

Policies and procedures manual; 200 KAR 5:021

Recycled content, goods, supplies, equipment, material, printing with, purchase of; 200 KAR 5:330

Repealer; 200 KAR 5:051

Set asides, small, minority business; 200 KAR 5:076

### **RACING COMMISSION**

Thoroughbred racing; 810 KAR Chapter 1

### **RESPIRATORY CARE, BOARD OF**

Continuing education requirements; 201 KAR 29:050

### **RETIREMENT**

(Also see Teachers' Retirement)

#### **Kentucky Employees Retirement System**

Minimum distribution; 105 KAR 1:380

#### **Teachers' Retirement**

##### **General Rules**

Employment, retired members; 102 KAR 1:035

Final average salary based on 3 highest salaries; 102 KAR 1:220

Optional benefits; 102 KAR 1:150

### **REVENUE CABINET**

(See also Taxation)

#### **Income Tax**

Withholding; 103 KAR Chapter 18

#### **Sales and Use Tax**

Service and professional occupations; 103 KAR Chapter 26

### **ROBERT C BYRD HONORS SCHOLARSHIP PROGRAM**

(See Higher Education Assistance Authority)

### **SALES AND USE TAX**

(See Taxation)

### **SEXUAL ABUSE VICTIMS**

(See Attorney General)

### **SEXUAL ASSAULT NURSE EXAMINER PROGRAM**

(See Nursing, Board of)

### **STATE POLICE**

#### **Driver Training**

Commercial driver's license skill testing; 502 KAR 10:110

Operator's license skill testing; 502 KAR 10:100

### **SUBSTANCE ABUSE**

(See Mental Health and Mental Retardation Services)

### **SURFACE MINING RECLAMATION, ENFORCEMENT**

#### **Bonds, Insurance**

Definitions; 405 KAR 10:001

#### **Inspection, Enforcement**

Definitions; 405 KAR 12:001

#### **Permits**

Definitions; 405 KAR 8:001

#### **Provisions, General**

Definitions; 405 KAR 7:001

#### **Special Standards**

Definitions; 405 KAR 20:001

#### **Surface Effects of Noncoal Mining**

Material handling; 405 KAR 5:060

Permit requirements; 405 KAR 5:030

#### **Surface Mining Activities, Performance Standards**

Definitions; 405 KAR 16:001

#### **Underground Mining Activities, Performance Standards**

Definitions; 405 KAR 18:001

#### **Unsuitable Areas**

Definitions; 405 KAR 24:001

### **TATTOOING**

(See Public Health)

### **TAXATION**

(See also Revenue)

#### **Income, Withholding**

Withholding statements; 103 KAR 18:050

#### **Sales and Use Tax**

Advertising agencies; 103 KAR 26:120

### **TEACHER SCHOLARSHIP LOAN PROGRAM**

(See Higher Education Assistance Authority)

### **TEACHERS' RETIREMENT**

(Also see Retirement)

General Rules; 102 KAR Chapter 1

### **TECHNICAL EDUCATION**

Personnel system for certified, equivalent employees



## SUBJECT INDEX

School term, extent, duration; use of school days, extended employment; 780 KAR 3:080

### THOROUGHbred RACING

Entries, subscriptions, declarations; 810 KAR 1:027

### TRAFFIC

(See Highways)

### TRANSPORTATION

Highways

Traffic; 603 KAR Chapter 5

Motor Vehicle Commission

Commission; 605 KAR Chapter 1

Vehicle Regulation

Commercial driver's license; 601 KAR Chapter 11

Driver's license; 601 KAR Chapter 12

Motor carriers; 601 KAR Chapter 1

Motor vehicle tax; 601 KAR Chapter 9

### TREASURY

Postsecondary Education Prepaid Tuition Trust Fund

Repeal of 20 KAR Chapter 2; 20 KAR 2:011

State Treasury

Unclaimed properties

Accounts held, interest-bearing demand, savings, time deposit; 20 KAR 1:090

Claims; 20 KAR 1:040

Multiple claims; 20 KAR 1:100

Reports to be filed by holders; 20 KAR 1:080

### UNCLAIMED PROPERTY

(See Treasury)

### UNIVERSITIES

(See specific university)

### VEHICLE REGULATION

Commercial Driver's License

Medical waivers, intrastate operators; 601 KAR 11:040

Repealer; 601 KAR 11:061

Division of Motor Carriers

Safety; 601 KAR 1:005

Special overweight or overdimensional permits; 601 KAR 1:018

Driver's License

Instructional permit; 601 KAR 12:031

Motor Vehicle Tax

Apportioned registration; 601 KAR 9:135

Procedures for becoming a certified motor vehicle inspector; 601 KAR 9:085

### VOTING

(See Elections, State Board)

Help America Vote Act 2002; 31 KAR Chapter 6

### WASTE MANAGEMENT

Solid Waste Facilities

Environmental performance standards; 401 KAR 47:030

### WATER

Quality

Antidegradation policy implementation methodology; 401 KAR 5:030

Definitions; 401 KAR 5:002

General provisions; 401 KAR 5:029

Permits to construct, modify, operate facility; 401 KAR 5:005

Surface waters standards; 401 KAR 5:031

Surface waters, designation, classification; 401 KAR 5:026

### WATER PATROL

(See Fish and Wildlife Resources)

### WESTERN KENTUCKY UNIVERSITY

Board of Regents

Capital construction procedures; 770 KAR 1:070

### WILDLIFE

(See Fish and Wildlife Resources)

### WILDLIFE MANAGEMENT AREAS

(See Fish and Wildlife Resources)

### WORK STUDY PROGRAM

(See Higher Education Assistance Authority)

### WORKERS' CLAIMS (DEPARTMENT)

Adjustment of claims, procedures; 803 KAR 25:010

Attorney fee computation, retraining incentive benefits award, interim attorney fee motions; 803 KAR 25:125

Insurance coverage filing, notice of policy change or termination; 803 KAR 25:175

### WORKFORCE DEVELOPMENT CABINET

Employment Services

Unemployment insurance; 787 KAR Chapter 1

Technical Education Department

Personnel system for certified, equivalent employees; 780 KAR Chapter 3