ORDER FORM

MAIL TO: Bettina Abshire Smith
KY Administrative Register
Room 64, State Capitol
Frankfort KY 40601
Ph: (502) 564-8100 FAX: (502) 564-5947

Enclosed is my check, payable to the "Legislative Research Commission," in the amount of $_____. **(Please indicate one below)**

_____ Send me the "ADMINISTRATIVE REGISTER" for 12 months, starting with the July 1, 2011 issue - COST: $96.00
(plus 6% Kentucky sales tax for Kentucky residents - TOTAL: $101.76)

_____ Send me the twelve bound volumes of the 2011 KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE containing all regulations in effect as of June 15, 2011 as soon as published - COST: $170.00
(plus 6% Kentucky sales tax for Kentucky residents - TOTAL: $180.20)

_____ Send me both the "Administrative Register" for the next 12 months and the twelve bound volumes of the 2011 KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE - COMBINATION PRICE: $250.00
(plus 6% Kentucky sales tax for Kentucky residents - TOTAL: $265.00)

NAME and/or AGENCY: _____

ADDRESS: _____

CITY, STATE, ZIP CODE: _____

PHONE NUMBER: _____

FAX NUMBER: _____

E-MAIL ADDRESS: _____

STATE AGENCY NO.: _____

ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 37, NUMBER 12
WEDNESDAY, JUNE 1, 2011

ARRS - JUNE 14, 2011 TENTATIVE AGENDA 2803
REGULATION REVIEW PROCEDURE 2806

EMERGENCIES:
Board of Dentistry 2807
Applied Behavioral Licensing Board 2817
Department of Housing, Buildings and Construction 2824
Cabinet for Health and Family Services..... 2826

AS AMENDED:
Kentucky State Board of Elections..... 2828
Board of Hairdresser and Cosmetologists 2829
Board of Nursing 2830
Department of Fish and Wildlife Resources..... 2832
Department of Education 2834
Department of Financial Institutions..... 2836
Kentucky Horse Racing Commission..... 2852

AMENDED AFTER COMMENTS
Board of Dentistry 2807
Department of Juvenile Justice..... 2881
Kentucky Horse Racing Commission..... 2883
Cabinet for Health and Family Services..... 2886

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MAY 15, 2011:
Board of Auctioneers..... 2891
Board of Nursing 2892
Kentucky State Nature Preserves Commission 2920
EEC: Division of Water..... 2924
Justice and Public Safety Cabinet..... 2927
Education and Workforce Development Cabinet 2994
Department of Housing, Buildings and Construction 3000
Cabinet for Health and Family Services..... 3005

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON MAY 15, 2011:
Board of Auctioneers..... 3020
Board of Dentistry..... 3022
Applied Behavioral Licensing Board..... 3031
Justice and Public Safety Cabinet..... 3038
Education Assessment..... 3042
Department of Housing, Buildings and Construction..... 3045

ARRS Report..... 3047
OTHER COMMITTEE REPORTS..... NONE

CUMULATIVE SUPPLEMENT
Locator Index - Effective Dates **..... L - 2**
KRS Index ..... **L - 16**
Technical Amendments..... **L - 33**
Subject Index..... **L - 34**

MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet June 14, 2011 at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **2803-2805** of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2010 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 37, Kentucky Register, page 318 (short form: 37 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, Board, or Major Function	Specific Regulation

ADMINISTRATIVE REGISTER OF KENTUCKY
(ISSN 0096-1493)
© 2011 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: $96 (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 Gregory Stumbo
House Speaker

Senate and House Members

Senator Katie Kratz Stine
President Pro Tem

Representative Larry Clark
Speaker Pro Tem

Senator Robert Stivers
Majority Floor Leader

Representative Rocky Adkins
Majority Floor Leader

Senator R.J. Palmer III
Minority Floor Leader

Representative Jeffrey Hoover
Minority Floor Leader

Senator Daniel Seum
Majority Caucus Chairman

Representative Robert R. Damron
Majority Caucus Chairman

Senator Johnny Ray Turner
Minority Caucus Chairman

Representative Bob DeWeese
Minority Caucus Chairman

Senator Carroll Gibson
Majority Whip

Representative Tommy Thompson
Majority Whip

Senator Jerry P. Rhoads
Minority Whip

Representative Danny R. Ford
Minority Whip

Robert Sherman, Director
Joe Cox, Printing and Publications Officer

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

Senator Joe Bowen, Co-Chair
Representative Johnny Bell, Co-Chair
Senator David Givens
Senator Alice Forgy Kerr
Senator Joey Pendleton
Representative Robert Damron
Representative Danny R. Ford
Representative Jimmie Lee

Staff

Dave Nicholas
Emily Caudill
Donna Little
Sarah Amburgey
Emily Harkenrider
Karen Howard
Betsy Cupp
Laura Napier

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, JUNE 14, 2011, at 1:00 p.m., Room 149 Capitol Annex

EDUCATION PROFESSIONAL STANDARDS BOARD

Assessment

16 KAR 6:030. Examination prerequisites for principal certification.

PERSONNEL BOARD

Board

101 KAR 1:325. Probationary periods.

PERSONNEL CABINET

Classified

101 KAR 2:095 & E. Classified service administrative regulations. ("E" expires 9/27/2011)

101 KAR 2:102 & E. Classified leave administrative regulations. ("E" expires 9/27/2011)

Unclassified

101 KAR 3:015 & E. Leave administrative regulations for the unclassified services. ("E" expires 9/27/2011)

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Income Taxation

Income Tax; General Administration

103 KAR 15:195 & E. Endow Kentucky Tax Credit. ("E" expires 9/28/2011)

GENERAL GOVERNMENT CABINET
Board of Dentistry

Board

201 KAR 8:550 & E. Anesthesia and sedation. ("E" expires 8/29/2011) (Amended After Comments)

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources

Game

301 KAR 2:300. Black bears.

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Water

Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology. (Amended After Comments) (Deferred from May)

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
Division of Community and Mental Health Services

Child Welfare

505 KAR 1:130. Department of Juvenile Justice policies and procedures; juvenile services in community. (Amended After Comments)

TRANSPORTATION CABINET
Department of Highways
Division of Maintenance

Right-of-Way

603 KAR 4:035. Logo signs; placement along fully controlled and partially controlled access highways.

PUBLIC PROTECTION CABINET
Department of Insurance
Financial Standards and Examination Division

Authorization of Insurers and General Requirements

806 KAR 3:170. Annual audited financial reports.

Health and Life Division

Trade Practices and Fraud

806 KAR 12:120. Suitability in annuity transactions.

Kentucky Horse Racing Commission

Quarter Horse, Appaloosa, and Arabian Racing

811 KAR 2:190. Kentucky Quarter Horse, Appaloosa, and Arabian Development. (Amended After Comments)

Department of Housing, Buildings and Construction
Division of Plumbing

Plumbing

815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of license.

815 KAR 20:070. Plumbing fixtures.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy

Certificate of Need
900 KAR 6:030. Certificate of need expenditure minimums.
Data Reporting and Public Use Data Sets
900 KAR 7:030. Data reporting by health care providers.

Department for Medicaid Services
Division of Provider Operations

Medicaid Services
907 KAR 1:715. School-based health services. (Amended After Comments)

Department for Community Based Services
Division of Protection and Permanency

Child Welfare
922 KAR 1:420 & E. Child fatality or near fatality investigations. ("E" expires 7/2/2011) (Deferred from March)

REMOVED FROM JUNE 2011 AGENDA

GENERAL GOVERNMENT CABINET
~~Board of Licensure for Occupational Therapy~~

~~Board~~
~~201 KAR 28:170. Deep physical agent modalities. (Comments Received)~~ (Withdrawn by agency)

Board of Interpreters for the Deaf and Hard of Hearing

Board
201 KAR 39:010. Definitions. (Deferred from May)
201 KAR 39:030. Application; qualifications for licensure; and certification levels. (Deferred from May)
201 KAR 39:040. Fees. (Deferred from May)
201 KAR 39:050. Renewal of licenses and extension of temporary licenses. (Deferred from May)
201 KAR 39:060. Reinstatement of license subject to disciplinary action. (Deferred from May)
201 KAR 39:070. Application and qualifications for temporary licensure. (Deferred from May)
201 KAR 39:080. Reciprocity. (Deferred from May)
201 KAR 39:090. Continuing education requirements. (Deferred from May)
201 KAR 39:100. Complaint procedure. (Deferred from May)
201 KAR 39:120. Code of ethics. (Deferred from May)

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources

Fish
301 KAR 1:152. Asian carp harvest program. (Comments Received)
Game
301 KAR 2:095. Importation of cervid carcasses and parts. (Comments Received)

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Waste Management

Underground Storage Tanks
401 KAR 42:005. Definitions related to 401 KAR Chapter 42. (Comments Received)
401 KAR 42:011. Scope of underground storage tank program. (Comments Received)
401 KAR 42:020. UST systems: design, construction, installation, and registration. (Comments Received)
401 KAR 42:030. UST system general operating requirements. (Comments Received)
401 KAR 42:040. UST system release detection. (Comments Received)
401 KAR 42:045. Delivery prohibition. (Comments Received)
401 KAR 42:050. UST system release reporting, investigation, and confirmation. (Comments Received)
401 KAR 42:060. UST system release response and corrective action for UST systems containing petroleum or hazardous substances. (Comments Received)
401 KAR 42:070. Out-of-service UST systems, temporary closure and permanent closure of UST systems, and change in service of UST systems. (Comments Received)
401 KAR 42:080. Classification of UST systems containing petroleum and listing of associated cleanup levels. (Comments Received)
401 KAR 42:090. Financial responsibility. (Comments Received)
401 KAR 42:095. Lender liability. (Comments Received)
401 KAR 42:200. Annual fee for underground storage tanks. (Comments Received)
401 KAR 42:250. Petroleum storage tank environmental assurance fund reimbursement procedures. (Comments Received)
401 KAR 42:290. Ranking system. (Comments Received)
401 KAR 42:300. Third-party claims. (Comments Received)
401 KAR 42:315. Repeal of 401 KAR 42:314. (Comments Received)
401 KAR 42:316. Petroleum storage tank environmental assurance fund eligibility criteria for contracting companies and partnerships. (Comments Received)
401 KAR 42:320. Hearings. (Comments Received)
401 KAR 42:330. Small owners tank removal account. (Comments Received)
401 KAR 42:335. Financial audits. (Comments Received)
401 KAR 42:340. Laboratory certification. (Comments Received)
Solid Waste Facilities
401 KAR 47:205. Contents of the application for petroleum contaminated soil treatment facilities. (Comments Received)
401 KAR 47:207. Public information procedures for petroleum contaminated soil treatment facilities. (Comments Received)
Standards for Solid Waste Facilities

401 KAR 48:205. Technical requirements for petroleum contaminated soil treatment facilities. (Comments Received)

401 KAR 48:206. Petroleum contaminated soil treatment facility liner soil layer quality assurance and quality control. (Comments Received)

401 KAR 48:207. Petroleum contaminated soil treatment facility liner geosynthetic quality assurance and quality control. (Comments Received)

401 KAR 48:208. Petroleum contaminated soil treatment facility liner high-permeability layer quality assurance and quality control. (Comments Received)

Division of Air Quality

Attainment and Maintenance of the National Ambient Air Quality Standards

401 KAR 51:052 & E. Review of new sources in or impacting upon nonattainment areas. ("E" expires 10/13/2011) (Comments Received, SOC ext.)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE - OVERVIEW
(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing and comment period information, regulatory impact analysis and tiering statement, fiscal note, federal mandate comparison, and incorporated material information. Those administrative regulations received by the deadline established 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 until the end of the calendar month in which the administrative regulation was published.

The administrative regulation shall include: the place, time, and date of the hearing; the manner in which persons may submit notification to attend the hearing and written comments; that notification to attend the hearing 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, whether the hearing was held or cancelled and whether written comments were received. If the hearing was held or written comments were received, the administrative body shall file a statement of consideration with the Compiler by the fifteenth day of the calendar month following the month of publication.

A transcript of the hearing is not required 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.

EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, MAY 15, 2011

STATEMENT OF EMERGENCY
201 KAR 8:008E

The complete repeal and reenactment of KRS Chapter 313 during the 2010 regular session of the Kentucky General Assembly made it necessary the immediate change of regulations concerning the practice of dentistry; this emergency administrative regulation repeals 201 KAR 8:390 which is in conflict with 201 KAR 8:550 E and) which have been previously filed and cause a potential issue in the protection of public health in the Commonwealth. This emergency administrative regulation must be placed into effect immediately in order to relieve the previously stated conflict and allow the board to effectively regulate the use of General Anesthesia and Sedation by Dentistry in the Commonwealth and further alleviate any public health protection concerns. This emergency regulation shall not be replaced by an ordinary administrative regulation.

GENERAL GOVERNMENT CABINET
Board of Dentistry
(Emergency Repealer)

201 KAR 8:008E. Repeal of 201 KAR 8:390.

RELATES TO: KRS 313.021
STATUTORY AUTHORITY: KRS 313.021
EFFECTIVE: April 21, 2011
NECESSITY, FUNCTION, AND CONFORMITY: The passage of KRS 313.021 the statute which authorizes the board to promulgate regulations included this emergency Repealer, and KRS 313.021requires the board to exercise all of the administrative functions of the Commonwealth in the regulation of the profession of dentistry. This administrative regulation ensures that board's promulgated regulations are consistent with its statutory authority.

Section 1. 201 KAR 8:390 General anesthesia, deep sedation, and conscious sedation by dentist, is hereby repealed.

DR. C. MARK FORT, DMD, President
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: April 21, 2011 at 10 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 30, 2011, at 9:00 a.m. at the office of the Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing no later than 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 emergency 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 emergency administrative regulation. Written comments shall be accepted until June 30, 2011. Send written notification of intent to be heard at the public hearing or written comments on the emergency administrative regulation to the contact person.
CONTACT PERSON: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email briank.bishop@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brian K. Bishop, Executive Director
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 201 KAR 8:390.
(b) The necessity of this administrative regulation: This administrative regulation is necessary as the regulations are in conflict with 201 KAR 8:550E and O
(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation conforms to KRS 313.021
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation negates conflict between 201 KAR 8:390 and 201 KAR 8:550E and O.
(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 statute: 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: Only the Kentucky Board of Dentistry will be affected by this administrative regulation.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Kentucky Board of Dentistry is charged by KRS 313.021 to regulate the practice of dentistry in the Commonwealth.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The Board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of $705,400 and for FY 2011 – 2012 and allotment of $714,000.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Kentucky Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for its licensees to legally practice dentistry in the Commonwealth.
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The Board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of $705,400 and for FY 2011 – 2012 and allotment of $714,000. The Kentucky Board of Dentistry receives no monies from the General Fund.
(a) Initially: No additional costs are expected.
(b) On a continuing basis: No additional costs are expected.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Dentistry is a fully self funded agency and derives it funding from fees paid by its licensees.
(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: 201 KAR 8:520E provides the fees to be paid by licensees which makes the board fully self funded and financially solvent.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: N/A
(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because this administrative regulation applies equally to all individuals.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government

(including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 313 et al.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no new net fiscal affect on the Kentucky Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(c) How much will it cost to administer this program for the first year? FY 2010 – 2011 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $705,400

(d) How much will it cost to administer this program for subsequent years? FY 2011 – 2012 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $714,000

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
201 KAR 8:532E

The complete repeal and reenactment of KRS Chapter 313 during the 2010 regular session of the Kentucky General Assembly makes necessary the immediate change of regulations concerning the practice of dentistry; this emergency administrative regulation establishes requirements and procedures for the licensure of dentists. This emergency administrative regulation must be placed into effect immediately in order for the board to regulate the practice of dentistry and issue any type of license for the two hundred plus dental students expected to graduate in May for initial licensure and students who will be finishing post graduate training for specialty licensure. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVE BESHEAR, Governor
DR. C. MARK FORT, DMD, President

GENERAL GOVERNMENT CABINET
Board of Dentistry
(New Emergency Administrative Regulation)

201 KAR 8:532E. Licensure of dentists.

RELATES TO: KRS 39A.350 - 366, 214.615, 304.040 - 075, 313.010(9), 313.030, 313.035, 313.080, 313.130, 313.245

EFFECTIVE: April 21, 2011

STATUTORY AUTHORITY: KRS 214.615(2), 313.020(2), 313.021(1)(a), (b), (c), 313.035(1), (3), 313.254

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.035 requires the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dentists. This administrative regulation establishes requirements and procedures for licensure of dentists.

Section 1. General Licensure Requirements. An applicant desiring dental licensure in the Commonwealth shall at a minimum:

(1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(2) Submit a completed, signed, and notarized Application for Dental Licensure with an email contact address and with an attached applicant photo taken within the past six (6) months;

(3) Pay the fee required 201 KAR 8:520;

(4) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(5) Provide proof of completion of the requirements of KRS 214.615(1);

(6) Complete and pass the board's jurisprudence exam;

(7) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) which meets or exceeds the guidelines set forth by the American Heart Association;

(8) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint;

(9) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;

(10) Provide proof that the applicant is a graduate of a Commission on Dental Accreditation (CODA) accredited dental school or college or dental department of a university;

(11) Provide proof that the applicant has successfully completed Part I and Part II of the National Board Dental Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations; and

(12) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

Section 2. Requirements for Licensure by Examination. (1) Each individual desiring initial licensure as a dentist by examination shall complete all of the requirements listed in Section 1 of this administrative regulation.

(2) Each individual desiring initial licensure as a dentist by examination shall successfully complete a clinical examination within the five (5) years preceding the filing of his application.

(a) Prior to July 15, 2013, the board shall accept the following regional clinical examinations:

1. The examination of the Council of Interstate Testing Agencies (CITA);

2. The examination of the Central Regional Dental Testing Service (CRDTS);

3. The examination of the North East Regional Board of Dental Examiners (NERB);

4. The examination of the Southern Regional Testing Agency (SRTA); and

5. The examination of the Western Regional Examining Board (WREB).

(b) After July 15, 2013, the board shall only accept a nationalized clinical examination.

(3) An individual desiring initial licensure as a dentist by examination more than two (2) years after fulfilling all of the requirements of his CODA accredited dental education shall:

(a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or

(b) If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior to receiving a license to practice dentistry in the Commonwealth of Kentucky.

(4) An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall not be allowed to sit for the examination again until the applicant has completed and

passed a remediation plan approved by the board.

Section 3. Requirements for Licensure by Credentials. Each individual desiring initial licensure as a dentist by credentials shall:

(1) Complete all of the requirements listed in Section 1 of this administrative regulation;

(2) Provide proof of having passed a state, regional, or national clinical examination used to determine clinical competency in a state or territory of the United States or the District of Columbia; and

(3) Provide proof that, for five (5) of the six (6) years immediately preceding the filing of the application, the applicant has been engaged in the active practice of dentistry when he or she was legally authorized to practice dentistry in a state or territory of the United States or the District of Columbia if the qualifications for the authorization were equal to or higher than those of the Commonwealth of Kentucky.

Section 4. Requirements for Student Limited Licensure. (1) Each individual desiring a student limited license shall:

(a) Complete all of the requirements listed in Section 1 of this administrative regulation with the exception of subsections (10) and (11);

(b) Provide a letter from the dean or program director of a postgraduate, residency, or fellowship program in the Commonwealth of Kentucky stating that the applicant has been accepted into a program and the expected date of completion;

(c) Submit a signed Statement Regarding Student Licensure Limitations; and

(d) Submit an official final transcript of the applicant's dental coursework with degree posted.

(2) An individual licensed under this section shall only practice dentistry in conjunction with programs of the dental school where the individual is a student and shall only provide professional services to patients of these programs.

(3) Licenses issued under this section shall be renewed with all other dental licenses issued by the board and shall automatically expire upon the termination of the holder's status as a student.

(4) A program enrolling an individual holding a student limited license shall notify the board in writing of the date the student graduates from or exits the program.

(5) Nothing in this section shall prohibit:

(a) A student from performing a dental operation under the supervision of a competent instructor within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize a student of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. A fee shall not be accepted by the student beyond the expenses provided by the stipend;

(b) A student limited license holder from working under the general supervision of a licensed dentist within the confines of the postgraduate training program; and

(c) A volunteer health practitioner from providing services under KRS 39A.350-366.

Section 5. Requirements for Faculty Limited Licensure. (1) Each individual desiring a faculty limited license shall:

(a) Complete all of the requirements listed in Section 1 of this administrative regulation with the exception of subsections (10) and (11);

(b) Provide a letter from the dean or program director of the dental school showing a faculty appointment with one (1) of the Commonwealth's dental schools;

(c) Submit a signed Statement Regarding Faculty Licensure Limitations; and

(d) Submit an official final transcript of his dental coursework with degree posted.

(2) An individual licensed under this section shall only practice dentistry in conjunction with programs of the dental school where the individual is a faculty member and shall only provide professional services to patients of these programs.

(3) Licenses issued under this section shall be renewed with all other dental licenses issued by the board and shall automatically expire upon the termination of the holder's status as a faculty member.

(4) A program employing an individual holding a faculty limited license shall notify the board in writing of the date the licensee exits the program.

Section 6. Requirements for Licensure of Foreign Trained Dentists. (1) Each individual desiring licensure as a dentist who is a graduate of a non-CODA accredited dental program shall successfully complete two (2) years of postgraduate training in a CODA accredited general dentistry program and shall:

(a) Provide proof of having passed the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service with a score of 650 on the paper-based examination or a score of 116 on the internet-based examination, if English is not the applicant's native language;

(b) Submit a completed, signed, and notarized Application for Dental Licensure with an email contact address and with an attached applicant photo taken within the past six (6) months;

(c) Pay the fee required by 201 KAR 8:520;

(d) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(e) Provide proof of having completed the requirements of KRS 214.615(1);

(f) Complete and pass the board's jurisprudence exam;

(g) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the guidelines set forth by the American Heart Association;

(h) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint;

(i) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;

(j) Provide proof of having successfully completed two (2) years postgraduate training in a CODA accredited general dentistry program;

(k) Submit one (1) letter of recommendation from the program director of each training site;

(l) Provide proof of successful completion of Part I and Part II of the National Board Dental Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations within the five (5) years preceding application for licensure;

(m) Provide proof of successfully completing within the five (5) years prior to application a clinical examination approved in Section 2(2) of this administrative regulation; and

(n) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) An individual desiring initial licensure as a dentist who is a graduate of a non-CODA accredited dental program and applies more than two (2) years after fulfilling all of the requirements of his post-graduate training in a CODA accredited general dentistry program shall:

(a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or

(b) If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior to receiving a license to practice dentistry in the Commonwealth of Kentucky.

Section 7. Requirements for Charitable Limited Licensure. (1) Each individual desiring a charitable limited license shall:

(a) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(b) Submit a completed, signed, and notarized Application for Charitable Dental Licensure with an attached applicant photo taken within the past six (6) months;

(c) Not be subject to disciplinary action pursuant to KRS Chap-

ter 313 that would prevent licensure;

(d) Have a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; and

(e) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) An individual licensed under this section shall:

(a) Work only with charitable entities registered with the Cabinet for Health and Family Services that have met the requirements of KRS 313.254 and 201 KAR 8:580;

(b) Only perform procedures allowed by KRS 313.010(9) which shall be completed within the duration of the charitable event;

(c) Be eligible for the provisions of medical malpractice insurance procured under KRS 304.40-075;

(d) Perform these duties without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer; and

(e) Have a charitable limited license that shall be valid for no more than two (2) years and shall expire during the regular dental renewal cycle.

(f) Comply with reciprocity requirements if applicable.

1. A state that extends a reciprocal agreement shall comply with this section.

2. An individual shall notify the sponsor of a charitable clinic and the board of the intent to conduct or participate in the clinic.

3. An individual conducting or participating in a charitable clinic shall have a license to practice dentistry in the state in which the dentist practices.

Section 8. Requirements for Specialty Licensure. Each individual desiring initial licensure as a specialist as defined by KRS 313.010 shall:

(1) Submit a completed, signed, and notarized Application for Specialty Licensure with an attached applicant photo taken within the past six (6) months;

(2) Pay the fee required by 201 KAR 8:520;

(3) Hold an active Kentucky license to practice general dentistry prior to being issued a specialty license; and

(4) Submit satisfactory evidence of completing a CODA accredited graduate or postgraduate specialty program after graduation from a dental school.

Section 9. Minimum Continuing Education Requirements. (1) Each individual desiring renewal of an active dental license shall complete thirty (30) hours of continuing education that relates to or advances the practice of dentistry and would be useful to the licensee's practice.

(2) Acceptable continuing education hours shall include course content designed to increase:

(a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental treatment;

(b) Knowledge of pharmaceutical products and the protocol of the proper use of medications;

(c) Competence to diagnose oral pathology;

(d) Awareness of currently accepted methods of infection control;

(e) Knowledge of basic medical and scientific subjects including, biology, physiology, pathology, biochemistry, pharmacology, epidemiology, and public health;

(f) Knowledge of clinical and technological subjects;

(g) Knowledge of subjects pertinent to patient management, safety, and oral healthcare;

(h) Competency in assisting in mass casualty or mass immunization situations;

(i) Clinical skills through the volunteer of clinical charitable dentistry that meets the requirements of KRS 313.254;

(j) Knowledge of office business operations and best practices; or

(k) Participation in dental association or society business meetings.

(3) A minimum of ten (10) hours shall be taken in a live interactive presentation format.

(4) A maximum of ten (10) hours total may be taken that meet the requirements of subsection (2)(i) - (k) of this section.

(5) All continuing education hours shall be verified by the receipt of a certificate of completion or certificate of attendance bearing:

(a) The signature of or verification by the provider;

(b) The name of the licensee in attendance;

(c) The title of the course or meeting attended or completed;

(d) The date of attendance or completion;

(e) The number of hours earned; and

(f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.

(6) It shall be the sole responsibility of the individual licensee to obtain documentation from the provider or sponsoring organization verifying participation as established in subsection (5) of this section and to retain the documentation for a minimum of five (5) years.

(7) At license renewal, each licensee shall attest to the fact that he or she has complied with the requirements of this section.

(8) Each licensee shall be subject to audit of proof of continuing education compliance by the board.

Section 10. Requirements for Renewal of a Dental License. (1) Each individual desiring renewal of an active dental license shall:

(a) Submit a completed and signed, signed, and notarized Application for Renewal of Dental Licensure with an email contact address and with an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Maintain with no more than a thirty (30) day lapse CPR certification that meets or exceeds the guidelines set forth by the American Heart Association unless a hardship waiver is submitted to and subsequently approved by the board;

(d) Meet the requirements of KRS 214.615(1) regarding HIV/AIDS education for healthcare providers; and

(e) Meet the continuing education requirements as outlined in Section 9 of this administrative regulation except in the following cases:

1. If a hardship waiver has been submitted to and is subsequently approved by the board;

2. If the licensee graduated in the first year of the renewal biennium, in which case the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation; and

3. If the licensee graduated in the second year of the renewal biennium, in which case the licensee shall not be required to complete the continuing education requirements outlined in Section 9 of this administrative regulation.

(2) If a licensee has not actively practiced dentistry in the two (2) consecutive years preceding the filing of the renewal application, he or she shall complete and pass a board approved refresher course prior to resuming the active practice of dentistry.

Section 11. Retirement of a License. (1) Each individual desiring retirement of a dental license shall submit a completed and signed Retirement of License Form.

(2) Upon receipt of this form, the board shall send written confirmation of retirement to the last known address of the licensee.

(3) A licensee shall not retire a license that has a pending disciplinary action against it.

(4) Each retirement shall be effective upon the processing of the completed and signed Retirement of License Form by the board.

Section 12. Reinstatement of a License. (1) Each individual desiring reinstatement of a properly retired dental license shall:

(a) Submit a completed, signed, and notarized Application to Reinstate a Dental License with an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Show proof of having current certification in CPR that meets or exceeds the guidelines set forth by the American Heart Association;

(d) Provide verification within three (3) months of the date the application is received at the office of the board of any license to

practice dentistry held previously or currently in any state or jurisdiction;

(e) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint; and

(f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) If an individual is reinstating a license that was retired within the two (2) consecutive years immediately preceding the filing of the reinstatement application, the individual shall provide proof of having met the continuing education requirements as outlined in Section 9 of this administrative regulation within those two (2) years.

(3) If the applicant has not actively practiced dentistry in the two (2) consecutive years immediately preceding the filing of the reinstatement application, the applicant shall complete and pass a refresher course approved by the board.

(4) If a license is reinstated in the first year of a renewal biennium, the licensee shall complete all of the continuing education requirements as outlined in Section 9 of this administrative regulation prior to the renewal of the license.

(5) If a license is reinstated in the second year of a renewal biennium, the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation prior to the renewal of the license.

Section 13. Requirements for Verification of Licensure. Each individual desiring verification of a dental license shall:

(1) Submit a signed and completed Verification of Licensure or Registration Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 14. Requesting a Duplicate License. Each individual desiring a duplicate dental license shall:

(1) Submit a signed and completed Duplicate License or Registration Request Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 15. Issuance of Initial Licensure. If an applicant has completed all of the requirements for licensure within six (6) months of the date the application was received at the office of the board, the board shall:

(1) Issue a license in sequential numerical order; or

(2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Dental Licensure", January 2011;

(b) "Statement Regarding Student Licensure Limitations", July 2010;

(c) "Statement Regarding Faculty Licensure Limitations", July 2010;

(d) "Application for Charitable Dental Licensure," July 2010;

(e) "Application for Specialty Licensure", July 2010;

(f) "Application for Renewal of Dental Licensure", January 2011;

(g) "Retirement of License Form", July 2010;

(h) "Application to Reinstate a Dental License", July 2010;

(i) "Verification of Licensure or Registration Form", July 2010;

(j) "Duplicate License or Registration Form", July 2010; and

(k) "American Heart Association CPR Guidelines", 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

DR. C. MARK FORT, DMD, President

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: April 21, 2011 at 10 a.m.

CONTACT PERSON: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email briank.bishop@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Brian K. Bishop, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for the licensure of dentists as mandated by KRS 313.035.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement KRS 313.035, which requires the board to promulgate administrative regulations regarding the licensure of dentists.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary about the classification of and licensure of dentists, by examination or credentials, the licensure of specialists, student limited licenses, faculty limited licenses, reciprocity, retirement of a license, reinstatement of a license, charity licenses and renewal programs as required by KRS 313.035.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets out the procedure for the licensure of dentists, by examination or credentials, the licensure of specialists, student limited licenses, faculty limited licenses, reciprocity, retirement of a license, reinstatement of a license, charity licenses and renewal programs as required by KRS 313.035.

(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 statute: 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 will impact 3119 currently licensed dentists and approximately 125 new applicants per year. Additionally, the Kentucky Board of Dentistry will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no new actions for licensees to take in order to comply with this administrative regulation. The Kentucky Board of Dentistry is charged by KRS 313.035 to regulate the practice of dentistry in the Commonwealth.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): From 201 KAR 8:520E:

The initial licensure fee for a general dental license applied for in a non-renewal year shall be $325.

The initial licensure fee for a general dental license applied for in a renewal year shall be $175.

The renewal fee for a general dental license appropriately renewed on or before the expiration of the license shall be $295.

The renewal reinstatement fee for a general dental license renewed between January 1 and January 15 of the year following the expiration of the license shall be $280 in addition to the renewal fee.

The renewal reinstatement fee for a general dental license renewed between January 16 and January 31 of the year following the expiration of the license shall be $560 in addition to the renewal fee.

The renewal reinstatement fee for a general dental license renewed on or after February 1 of the year following the expiration of the license shall be $1,120 in addition to the renewal fee.

The initial fee for a dental anesthesia or sedation permit shall be $250.

(The renewal fee for a dental anesthesia or sedation permit

shall be seventy-five (75) dollars and is in addition to the renewal fee for a general dental license.

The initial fee for an anesthesia or sedation facility certificate shall be $250.

The renewal fee for an anesthesia or sedation facility certificate shall be seventy-five (75) dollars.

The specialty license application fee shall be $100.

The specialty license renewal fee shall be fifty (50) dollars and is in addition to the renewal fee for a general dental license.

The fee for reinstatement of a properly retired general dental license shall be $350.

The fee for reinstatement of a properly retired specialty license shall be fifty (50) dollars and is in addition to the renewal fee for a general dental license. The Board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of $705,400 and for FY 2011 – 2012 and allotment of $714,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Kentucky Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for its licensees to legally practice dentistry in the Commonwealth.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The Board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of $705,400 and for FY 2011 – 2012 and allotment of $714,000. The Kentucky Board of Dentistry receives no monies from the General Fund.

(a) Initially: No additional costs are expected.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this regulation are fully funded by licensing fees paid by dentists as part of compliance with 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: The fees found in 201 KAR 8:520E make the agency financially solvent.

(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? This administrative regulation applies tiering by identifying each classification of licensure available to dentists in the Commonwealth of Kentucky. General dental licenses are the standard, full license type available, and applicants are therefore subject to the full complement of requirements. Reporting requirements are reduced for student, faculty, and charitable limited license applicants as they are subject to restrictions of practice. Specialty license holders are subject to additional reporting requirements as they hold a more advanced license than general dentists.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 2010 Ky. Acts ch. 85

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no new net fiscal affect on the Kentucky Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(c) How much will it cost to administer this program for the first year? FY 2010 – 2011 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $705,400

(d) How much will it cost to administer this program for subsequent years? FY 2011 – 2012 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $714,000

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
201 KAR 8:562E

The complete repeal and reenactment of KRS Chapter 313 during the 2010 regular session of the Kentucky General Assembly makes necessary the immediate change of regulations concerning the practice of dentistry; this emergency administrative regulation establishes requirements and procedures for the licensure of dental hygienists. This emergency administrative regulation must be placed into effect immediately in order for the board to regulate the practice of dental hygiene and issue any type of license for the dental hygiene students expected to graduate in May for initial licensure. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency regulation is identical to this emergency administrative regulation.

STEVE BESHEAR, Governor
DR. C. MARK FORT, DMD, President

GENERAL GOVERNMENT CABINET
Board of Dentistry
(New Emergency Administrative Regulation)

201 KAR 8:562E. Licensure of dental hygienists.

RELATES TO: KRS 214.615, 304.40 - 075, 313.030, 313.040, 313.060, 313.080, 313.130, 313.254

STATUTORY AUTHORITY: KRS 214.615(2), 313.021(1)(a) - (c), 313.040(1), (2), (7), 313.254

EFFECTIVE DATE: April 21, 2011

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.040 requires the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dental hygienists. This administrative regulation establishes requirements and procedures for the licensure of dental hygienists.

Section 1. General Licensure Requirements. An applicant desiring licensure in the Commonwealth shall at a minimum:

(1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(2) Submit a completed, signed, and notarized Application for

Dental Hygiene Licensure with an email contact address and an attached applicant photo taken within the past six (6) months;

(3) Pay the fee required by 201 KAR 8:520;

(4) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(5) Provide proof of completion of the requirements of KRS 214.615(1);

(6) Complete and pass the board's jurisprudence exam;

(7) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the guidelines set forth by the American Heart Association, incorporated by reference in 201 KAR 8:531;

(8) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint;

(9) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dental hygiene held previously or currently in any state or jurisdiction;

(10) Provide proof that the applicant is a graduate of a Commission on Dental Accreditation (CODA) accredited dental hygiene school or college or dental hygiene department of a university;

(11) Provide proof that the applicant has successfully completed the National Board Dental Hygiene Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations; and

(12) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

Section 2. Requirements for Licensure by Examination. (1) Each individual desiring initial licensure as a dental hygienist by examination shall complete all of the requirements listed in Section 1 of this administrative regulation.

(2) Each individual desiring initial licensure as a dental hygienist by examination shall successfully complete a clinical examination within the five (5) years preceding the filing of his application.

(a) Prior to July 15, 2013, the board shall accept the following regional clinical examinations:

1. The examination of the Council of Interstate Testing Agencies (CITA);

2. The examination of the Central Regional Dental Testing Service (CRDTS);

3. The examination of the North East Regional Board of Dental Examiners (NERB);

4. The examination of the Southern Regional Testing Agency (SRTA); or

5. The examination of the Western Regional Examining Board (WREB).

(b) After July 15, 2013, the board shall only accept a nationalized clinical examination.

(3) An individual desiring initial licensure as a dental hygienist by examination more than two (2) years after fulfilling all of the requirements of his CODA accredited dental hygiene education shall:

(a) Hold a license to practice dental hygiene in good standing in another state or territory of the United States or the District of Columbia; or

(b) If the applicant does not hold a license to practice dental hygiene in good standing, complete a board approved refresher course prior to receiving a license to practice dental hygiene in the Commonwealth of Kentucky.

(4) An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall not be allowed to sit for the examination again until the applicant has completed and passed a remediation plan prescribed by the board based on the applicant's deficiencies.

Section 3. Requirements for Licensure by Credentials. Each individual desiring initial licensure as a dental hygienist by credentials shall:

(1) Complete all of the requirements listed in Section 1 of this administrative regulation;

(2) Provide proof of having passed a state, regional, or national clinical examination used to determine clinical competency in a state or territory of the United States or the District of Columbia; and

(3) Provide proof that, for five (5) of the six (6) years immediately preceding the filing of the application, the applicant has been engaged in the active practice of dental hygiene while he or she was legally authorized to practice dental hygiene in a state or territory of the United States or the District of Columbia if the qualifications for the authorization were equal to or higher than those of the Commonwealth of Kentucky.

Section 4. Requirements for Charitable Limited Licensure. (1) Each individual desiring a charitable limited license shall:

(a) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(b) Submit a completed, signed, and notarized Application for Charitable Dental Hygiene Licensure with an attached applicant photo taken within the past six (6) month;

(c) Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(d) Have a license to practice dental hygiene in good standing in another state; and

(e) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) Individuals licensed under this section shall:

(a) Work only with charitable entities registered with the Cabinet for Health and Family Services which have met requirements of KRS 313.254and 201 KAR 8:580;

(b) Only perform procedures allowed by KRS 313.254, which shall be completed within the duration of the charitable event;

(c) Be eligible for the provisions of medical malpractice insurance procured under KRS 304.40-075;

(d) Perform these duties without expectation of compensation or charge to the individual and without payment or reimbursement by any governmental agency or insurer; and

(e) Have a charitable limited license that shall be good for two (2) years and expire during the regular dental hygiene renewal cycle.

(f) Comply with reciprocity requirements if applicable,

1. A state that extends a reciprocal agreement shall comply with this section.

2. An individual shall notify the sponsor of a charitable clinic and the board of the intent to conduct or participate in the clinic.

3. An individual conducting or participate in a charitable clinic shall have a license to practice dental hygiene in the state in which the dental hygienist practices.

Section 5. Minimum Continuing Education Requirements. (1) Each individual desiring renewal of an active dental hygiene license shall complete thirty (30) hours of continuing education that relates to or advances the practice of dental hygiene and would be useful to the licensee in his practice.

(2) Acceptable continuing education hours shall include course content designed to increase:

(a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental hygiene treatment;

(b) Knowledge of pharmaceutical products and the protocol of the proper use of medications;

(c) Awareness of currently accepted methods of infection control;

(d) Knowledge of basic medical and scientific subjects including, biology, physiology, pathology, biochemistry, pharmacology, epidemiology, and public health;

(e) Knowledge of clinical and technological subjects;

(f) Knowledge of subjects pertinent to patient management, safety, and oral healthcare;

(g) Competency in assisting in mass casualty or mass immunization situations;

(h) Clinical skills through the volunteer of clinical charitable dental hygiene that meets the requirements of KRS 313.254;

(i) Knowledge of office business operations and best practices; or

(j) Participation in dental or dental hygiene association or society business meetings.

(3) A minimum of ten (10) hours shall be taken in a live interactive presentation format.

(4) A maximum of ten (10) hours total may be taken that meet the requirements of subsection (2)(h) - (j) of this section.

(5) All continuing education hours shall be verified by the receipt of a certificate of completion or certificate of attendance bearing:

(a) The signature of the provider;

(b) The name of the licensee in attendance;

(c) The title of the course or meeting attended or completed;

(d) The date of attendance or completion;

(e) The number of hours earned; and

(f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.

(6) It shall be the sole responsibility of the individual dental hygienist to obtain documentation from the provider or sponsoring organization verifying participation as outlined in subsection (5) of this section and to retain the documentation for a minimum of five (5) years.

(7) At license renewal, each licensee shall attest to the fact that he or she has complied with the requirements of this section.

(8) Each licensee shall be subject to audit of proof of continuing education compliance by the board.

Section 6. Requirements for Renewal of a Dental Hygiene License. (1) Each individual desiring renewal of an active dental hygiene license shall:

(a) Submit a completed, signed, and notarized Application for Renewal of Dental Hygiene Licensure with an email contact address and an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Maintain with no more than a thirty (30) day lapse CPR certification that meets or exceeds the guidelines set forth by the American Heart Association, incorporated by reference in 201 KAR 8:530, unless a hardship waiver is submitted to and subsequently approved by the board;

(d) Meet the requirements of KRS 214.615(1); and

(e) Meet the continuing education requirements as outlined in Section 5 of this administrative regulation except in the following cases:

1. If a hardship waiver has been submitted to and is subsequently approved by the board;

2. If the licensee graduated in the first year of the renewal biennium, in which case the licensee shall complete one-half (1/2) of the hours as outlined in Section 5 of this administrative regulation; and

3. If the licensee graduated in the second year of the renewal biennium, in which case the licensee shall not be required to complete the continuing education requirements outlined in Section 5 of this administrative regulation.

(2) If a licensee has not actively practiced dental hygiene in the two (2) consecutive years preceding the filing of the renewal application, he or she shall complete and pass a board approved refresher course prior to resuming the active practice of dental hygiene.

Section 7. Retirement of a License. (1) Each individual desiring retirement of a dental hygiene license shall submit a completed and signed Retirement of License Form.

(2) Upon receipt of this form, the board shall send written confirmation of retirement to the last known address of the licensee.

(3) A licensee shall not retire a license that has pending disciplinary action against it.

(4) Each retirement shall be effective upon the processing of the completed and signed Retirement of License Formby the board.

Section 8. Reinstatement of a License. (1) Each individual desiring reinstatement of a properly retired dental hygiene license shall:

(a) Submit a completed, signed, and notarized Application for Dental Hygiene Licensure with an email contact address and an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Show proof of having current certification in CPR that meets or exceeds the guidelines set forth by the American Heart Association, incorporated by reference in 201 KAR 8:531;

(d) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dental hygiene held previously or currently in any state or jurisdiction;

(e) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint; and

(f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) If an individual is reinstating a license that was retired within the two (2) consecutive years immediately preceding the filing of the reinstatement application, the individual shall provide proof of having met the continuing education requirements as outlined in Section 5 of this administrative regulation within those two (2) years.

(3) If the applicant has not actively practiced dental hygiene in the two (2) consecutive years immediately preceding the filing of the reinstatement application, the applicant shall complete and pass a refresher course approved by the board.

(4) If a license is reinstated in the first year of a renewal biennium, the licensee shall complete all of the continuing education requirements as outlined in Section 5 of this administrative regulation prior to the renewal of his license.

(5) If a license is reinstated in the second year of a renewal biennium, the licensee shall complete one-half (1/2) of the hours as outlined in Section 5 of this administrative regulation prior to the renewal of his license.

Section 9. Requirements for Verification of Licensure. Each individual desiring verification of a dental hygiene license shall:

(1) Submit a signed and completed Verification of Licensure or Registration Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 10. Requesting a Duplicate License. Each individual desiring a duplicate dental hygiene license shall:

(1) Submit a signed and completed Duplicate License or Registration Request Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 11. Requirements for Local Anesthesia Registration. (1) An individual who has completed a course of study in dental hygiene at a board-approved CODA accredited institution on or after July 15, 2010, which meets or exceeds the education requirements as established in KRS 313.060(10) shall be granted the authority to practice local anesthesia upon the issuance by the board of a dental hygiene license.

(2) An individual licensed as a hygienist in Kentucky and not subject to disciplinary action who desires to administer local anesthesia and does not qualify to do so under Section 12(1) of this administrative regulation shall complete a training and education course as described in KRS 313.060(10).

(3) The training and education course shall be offered by at least one (1) of the following institutions in Kentucky:

(a) University of Louisville School of Dentistry;

(b) University of Kentucky College of Dentistry;

(c) Western Kentucky University Dental Hygiene Program; and

(d) Kentucky Community Technical College System Dental Hygiene Programs.

(4) Training received outside of Kentucky shall be from a CODA accredited dental or dental hygiene school and shall meet the requirements established in KRS 313.060(10).

(5) Once the required training is complete the applicant shall:

(a) Complete the Dental Hygiene Local Anesthesia Registration Application; and

(b) Pay the fee required by 201 KAR 8:520.

(6) Individuals authorized to practice under this provision shall receive a license from the board indicating registration to adminis-

ter local anesthesia.

(7) A licensed dental hygienist shall not administer local anesthesia if the licensee does not hold a local anesthesia registration issued by the board.

(8) Any licensed dental hygienist holding a local anesthesia registration from the board who has not administered block anesthesia, infiltration anesthesia, or nitrous oxide analgesia for one (1) year shall complete a board approved refresher course prior to resuming practice of that specific technique.

Section 12. Requirements for General Supervision Registration. (1) An individual licensed as a hygienist in Kentucky and not subject to disciplinary action who desires to practice under general supervision shall:

(a) Complete the General Supervision Registration Application;

(b) Meet the requirements of KRS 313.040(7)(a);

(c) Document through payroll records, employment records, or other proof that is independently verifiable the dates and hours of employment by a dentist in the practice of dental hygiene that demonstrate the required two (2) years and 3,000 hours of experience;

(d) Successfully complete a live three (3) hour course approved by the board in the identification and prevention of potential medical emergencies that shall include, at a minimum, the following topics:

1. Medical history, including American Society of Anesthesiologists (ASA) classifications of physical status;

2. Recognition of common medical emergency situations, symptoms, and possible outcomes;

3. Office emergency protocols; and

4. Prevention of emergency situations during dental treatments.

(2) An individual authorized to practice under these provisions shall receive a license from the board indicating registration to practice under general supervision.

(3) A dentist who employs a dental hygienist who has met the standards of this administrative regulation and who allows the dental hygienist to provide dental hygiene services pursuant to KRS 313.040(7) shall complete a written order prescribing the dental service or procedure to be done to a specific patient by the dental hygienist and shall retain the original order in the patient's dental record.

(4) The minimum requirements for the written order shall include:

(a) Medical history update;

(b) Radiographic records requested;

(c) Dental hygiene procedures requested;

(d) Name of the patient;

(e) Date of last oral examination;

(f) Date of the written order; and

(g) Signature of the dentist.

(5) The oral examination of the patient by the supervising dentist shall have been completed within the seven (7) months preceding treatment by the dental hygienist practicing under general supervision.

(6) The supervising dentist shall evaluate and provide to the board written validation of an employed dental hygienists skills necessary to perform dental hygiene services established in KRS 313.040(7) as part of the General Supervision Registration Application.

(7) The supervising dentist shall provide a written protocol addressing the medically compromised patients who may or may not be treated by the dental hygienist. The dental hygienist shall only treat patients who are in the ASA Patient Physical Status Classification of ASA I or ASA II as listed in Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, 2007 Edition, American Dental Association.

(8) A licensed dental hygienist shall not practice under general supervision if the licensee does not hold a general supervision registration issued by the board.

Section 13. Requirements for Starting Intravenous Access Lines. (1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action under KRS Chapter 313 who desires to start an intravenous (IV) access line while under the direct supervision of a dentist who holds a sedation or anesthesia permit issued by the board shall:

(a) Submit a signed and completed Application for Intravenous Access Line Registration;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Submit documentation proving successful completion of a board-approved course in starting IV access lines.

(2) An individual authorized to practice under this provision shall receive a license from the board indicating registration to start IV access lines.

(3) A licensed dental hygienist shall not start an IV access line if the licensee does not hold a board-issued registration to start IV access lines.

Section 14. Requirements for Performing Laser Debridement. (1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action under KRS Chapter 313 who desires to perform laser debridement while under the direct supervision of a dentist licensed by the board shall:

(a) Submit a signed and completed Application for Laser Debridement Registration;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Submit documentation proving successful completion of a board-approved course in performing laser debridement.

(2) An individual authorized to practice under this provision shall receive a license from the board indicating registration to perform laser debridement.

(3) A licensed dental hygienist shall not perform laser debridement if the licensee does not hold a registration to do so issued by the board.

Section 15. Issuance of Initial Licensure. If an applicant has completed the requirements for licensure the board shall:

(1) Issue a license in sequential numerical order; or

(2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Dental Hygiene Licensure", January 2011;

(b) "Application for Charitable Dental Hygiene Licensure", July 2010;

(c) "Application for Renewal of Dental Hygiene Licensure", January 2011;

(d) "Retirement of License Form", July 2010;

(e) "Application to Reinstate a Dental Hygiene License", July 2010;

(f) "Verification of Licensure or Registration Form", July 2010;

(g) "Duplicate License or Registration Request Form", July 2010;

(h) "Dental Hygiene Local Anesthesia Registration Application", July 2010;

(i) "General Supervision Registration Application", July 2010;

(j) "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students", 2007 Edition;

(k) "Application for Intravenous Access Line Registration", July 2010; and

(l) "Application for Laser Debridement Registration", July 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

DR. C. MARK FORT, DMD, President

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: April 21, 2011 at 10 a.m.

CONTACT PERSON: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email briank.bishop@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Brian K. Bishop, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for the licensure of dental hygienist as mandated by KRS 313.040 This administrative regulation also establishes the requirements for the administration of local anesthesia by a licensed dental hygienist as required in KRS 313.060

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the requirements and procedures for the licensure of dental hygienist as mandated by KRS 313.040 and establishes the requirements for the administration of local anesthesia by a licensed dental hygienist as required in KRS 313.060.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation is necessary to implement KRS 313.040 and KRS 313.060, which requires the board to promulgate administrative regulations regarding the requirements the licensure of dental hygienist and the requirements for the administration of local anesthesia.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to implement KRS 313.040 and KRS 313.060, which requires the board to promulgate administrative regulations regarding the requirements the licensure of dental hygienist and the requirements for the administration of local anesthesia.

(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 statute: 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 will affect the 2402 dental hygienist currently licensed by the board as well as any new dental hygienist licensed by the board in the future. Additionally, the Kentucky Board of Dentistry will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no new actions for licensees to take in order to comply with this administrative regulation. The Kentucky Board of Dentistry is charged by KRS 313.040 to regulate the practice of dentistry in the Commonwealth.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): the fees established in 201 KAR 8:520 are:

The initial licensure fee for a dental hygiene license applied for in a non-renewal year shall be $125.

The initial licensure fee for a dental hygiene license applied for in a renewal year shall be seventy-five (75) dollars.

The renewal fee for a dental hygiene license appropriately renewed on or before the expiration of the license shall be $110.

The renewal reinstatement fee for a dental hygiene license renewed between January 1 and January 15 of the year following the expiration of the license shall be $130 in addition to the renewal fee.

The renewal reinstatement fee for a dental hygiene license renewed between January 16 and January 31 of the year following the expiration of the license shall be $260 in addition to the renewal fee.

The renewal reinstatement fee for a dental hygiene license renewed on or after February 1 of the year following the expiration of the license shall be $520 in addition to the renewal fee.

The initial dental hygiene anesthesia registration fee shall be fifty (50) dollars.

The initial dental hygiene general supervision registration fee shall be fifty (50) dollars.

The initial dental hygiene intravenous access line registration fee shall be fifty (50) dollars.

The initial dental hygiene laser debridement registration fee shall be fifty (50) dollars.

The fee for reinstatement of a properly retired dental hygiene license shall be $125. The board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 - 2011 an allotment of $705,400 and for FY 2011 - 2012 and allotment of $714,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees who are in compliance will have the legal ability to practice dental hygiene in the Commonwealth of Kentucky. Kentucky Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for its licensees to legally practice dentistry in the Commonwealth.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The Board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 - 2011 an allotment of $705,400 and for FY 2011 - 2012 and allotment of $714,000. The Kentucky Board of Dentistry receives no monies from the General Fund.

(a) Initially: No additional costs are expected.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this regulation are fully funded by licensing fees paid by dental hygienist as part of compliance with 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: The fees found in 201 KAR 8:520 make the agency financially solvent.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is applied in as much as the dental hygienist wishes to undertake additional responsibilities allowed under the authority of the dentist for which he works. This administrative regulation establishes additional requirements for individual wishing to practice under the general supervision of the dentist, use lasers for debridement, or establish inter venous access on patients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 313

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no new net fiscal affect on the Kentucky Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation gen-

erate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(c) How much will it cost to administer this program for the first year? FY 2010 - 2011 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $705,400

(d) How much will it cost to administer this program for subsequent years? FY 2011 - 2012 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $714,000

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
201 KAR 43:010E

This emergency administrative regulation establishes the application process and requirements for licensure by the Kentucky Applied Behavior Analysis Licensing Board. This emergency administrative regulation must be placed into effect immediately in order ensure that the public is protected through the licensure of Applied Behavior Analyst by the Board. No licenses can be issued until the administrative regulation is promulgated. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVE BESHEAR, Governor
MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair of the Board

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analyst Licensing Board
(New Emergency Administrative Regulation)

201 KAR 43:010E. Licensed Behavior Analyst or Licensed Assistant Behavior Analyst: application procedures.

RELATES TO: KRS 319C.080(1) and (2)
STATUTORY AUTHORITY: KRS 319C.060(2)
EFFECTIVE: April 29, 2011
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a Behavior Analyst or Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for licensure.

Section 1. Application. (1) An application for a license as a Behavior Analyst or Assistant Behavior Analyst may be submitted after the requirements established in KRS 319C.080(1) and (2) are met.

(2) The application required by section (1) of this section shall be made by submitting a completed "Application Form-1" to the board. The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

3. An official transcript for all levels of education required for licensure.

Section 2. The applicant for licensure as a Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030

(2) Have received a masters or doctoral degree from a regionally accredited educational institution; provided, however, the board may grant a license to an individual
otherwise qualified under this administrative regulation who has received a masters or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Has passed the Board Certified Behavior Analyst (BCBA)® examination, and;

(4) Is credentialed and has active status at the time of the application as a behavior analyst by the Behavior Analyst Certification Board, and;

(5) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 3. The applicant for licensure as an Assistant Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030;

(2) Have received a bachelor's, masters, or doctoral degree from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this administrative regulation who has received a bachelor's, masters, or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Has passed the Board Certified Assistant Behavior Analyst (BCaBA)® examination, and;

(4) Is credentialed and has active status at the time of the application as an Assistant Behavior Analyst by the Behavior Analyst Certification Board, and;

(5) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 4. Incorporation by Reference. (1) "Application Form-Behavior Analyst or Assistant Behavior Analyst", January 2011 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

APPROVED BY AGENCY: March 21, 2011

FILED WITH LRC: April 29, 2011 at 4 p.m.

CONTACT PERSON: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky, 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for an applicant for licensure as a Behavior Analyst or Assistant Behavior Analyst.

(b) The necessity of this administrative regulation: This administrative is necessary to set the process for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the require-

ments for an applicant for licensure as a Behavior Analyst or Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the requirements for and the process involved in obtaining licensure from the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to file the completed application setting forth how the individual meets the qualifications for licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The fees for applying will be established in a separate regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will have their applications reviewed by the board.

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

(a) Initially: The board estimates that no additional costs will be incurred by this administrative regulation.

(b) On a continuing basis: The board estimates that no additional costs will be incurred by this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation amendment does not directly establish or increase fees.

(9) Tiering: Is tiering applied? Yes. The regulation includes separate requirements for the two levels of licensure, Behavior Analyst and Assistant Behavior Analyst.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
201 KAR 43:020E

This emergency administrative regulation establishes the application process and requirements for licensure by the Kentucky Applied Behavior Analysis Licensing Board. This emergency administrative regulation must be placed into effect immediately in order ensure that the public is protected through the licensure of Applied Behavior Analyst by the Board. No licenses can be issued until the administrative regulation is promulgated. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVE BESHEAR, Governor
MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analysis Licensing Board
(New Emergency Administrative Regulation)

201 KAR 43:020E. Temporary Licensed Behavior Analyst or Temporary Licensed Assistant Behavior Analyst: application procedures.

RELATES TO: KRS 319C.080 (3)
STATUTORY AUTHORITY: KRS 319C.060(2)
EFFECTIVE: April 29, 2011
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for temporary licensure as a Behavior Analyst or temporary licensure as an Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for temporary licensure.

Section 1. Application. (1) An application for a temporary license as a Behavior Analyst or temporary license as an Assistant Behavior Analyst may be submitted after the requirements established in KRS 319C.080(1) and (2) are met.

(2) The application required by section (1) of this section shall be made by submitting a completed "Application Form-Temporary Licensed Behavior Analyst or Temporary Licensed Assistant Behavior Analyst" to the board. The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

3. Applicant is aware that the temporary license shall expire two (2) years from the issuance date and may not be renewed.

(b) If applicant has completed the coursework through a BACB-approved program, the application shall include an original, certified postsecondary transcript.

(c) If applicant has completed coursework from a non-BACB-approved program, the application shall include an official post-secondary transcript and course syllabi for all behavior-analytic coursework showing that the applicant has met the coursework requirements for a Board Certified Behavior Analyst® or Board Certified Assistant Behavior Analyst®.

Section 2. The applicant for temporary licensure as a Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030.

(2) Have received a masters or doctoral degree from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this administrative regulation who has received a masters or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 3. The applicant for temporary licensure as an Assistant Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030;

(2) Have received a bachelor's, masters, or doctoral degree from a regionally accredited
educational institution; provided, however, the board may grant a license to an individual
otherwise qualified under this administrative regulation who has received a bachelor's, masters, or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 4. Incorporation by Reference. (1) "Application Form-Temporary Behavior Analyst or Temporary Assistant Behavior Analyst", (January 2011 edition), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

APPROVED BY AGENCY: March 21, 2011

FILED WITH LRC: April 29, 2011 at 4 p.m.

CONTACT PERSON: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for application for temporary licensure as a Behavior Analyst or Assistant Behavior Analyst.

(b) The necessity of this administrative regulation: This administrative is necessary to set the process for temporary licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for temporary licensure as a Behavior Analyst or Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for temporary licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the requirements and the process involved in obtaining temporary licensure from the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to file the completed application setting forth how the individual meets the qualifications for temporary licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The fees for applying will be established in a separate regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for temporary licensure will have their applications reviewed by the board.

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

(a) Initially: The board estimates that no additional costs will be incurred by this administrative regulation.

(b) On a continuing basis: The board estimates that no additional costs will be incurred by this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation amendment does not directly establish or increase fees.

(9) Tiering: Is tiering applied? Yes. The regulation includes separate requirements for the two levels of temporary licensure, Behavior Analyst and Assistant Behavior Analyst.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the

expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
201 KAR 43:030E

This emergency administrative regulation establishes the application process fees required for licensure by the Kentucky Applied Behavior Analysis Licensing Board. This emergency administrative regulation must be placed into effect immediately in order ensure that the public is protected through the licensure of Applied Behavior Analyst by the Board. No licenses can be issued until the administrative regulation is promulgated. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVE BESHEAR, Governor
MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analysis Licensing Board
(New Emergency Administrative Regulation)

201 KAR 43:030E. Fees.

RELATES TO: KRS 319C.060(2)(f); KRS 319C080(1)-(3)
STATUTORY AUTHORITY: KRS 319C.060(2)(f)
EFFECTIVE: April 29, 2011
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(f) requires the board to promulgate administrative regulations establishing reasonable fees for the licensure and license renewal of behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation establishes those fees.

Section 1. Application and licensure fees for licensed behavior analysts.

(1) An applicant for licensure as a licensed behavior analyst shall pay the following:

(a) A $100 nonrefundable application review fee, and;

(b) A $300 licensure fee for the first two (2) year licensure period.

(2) The licensure renewal fee for each subsequent, two (2) year licensure period shall be $300.

Section 2. Application and Licensure Fees for Licensed Assistant Behavior Analysts.

(1) An applicant for licensure as a licensed assistant behavior analyst shall pay the following:

(a) A $100 nonrefundable application review fee, and;

(b) A $200 licensure fee for the first two (2) year licensure period.

Section 3. Application and Temporary Licensure Fees for Temporarily Licensed Behavior Analysts.

(1) An applicant for a temporary license as a behavior analyst shall pay the following:

(a) A $100 nonrefundable application review fee, and;

(b) A $200 temporary licensure fee for the two (2) year temporary licensure period.

Section 4. Fees for Late Renewal or Reinstatement of a Licensed Behavior Analyst and Licensed Assistant Behavior Analyst.

(1) A licensed behavior analyst or a licensed assistant behavior analyst who files to renew his or her license after its renewal date but within thirty (30) days of that renewal date shall pay a late fee of $50 in addition to the fee set forth in Section 1 or 2 of this administrative regulation.

(2) A licensed behavior analyst or a licensed assistant behavior analyst who files to reinstate his or her license more than thirty (30) days after its renewal date but within one (1) year of that renewal date shall pay a reinstatement fee of $250 in addition to the fee set forth in Section 1 or 2 of this administrative regulation.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

APPROVED BY AGENCY: March 21, 2011

FILED WITH LRC: April 29, 2011 at 4 p.m.

CONTACT PERSON: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees for application for licensure as a Behavior Analyst or Assistant Behavior Analyst.

(b) The necessity of this administrative regulation: This administrative is necessary to set the fees for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(f) requires the board to promulgate administrative regulations establishing reasonable fees for the licensure and license renewal of behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation establishes those fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the fees required for licensure from the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to pay the fee for licensure by the board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The fees are set forth in the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will have

their applications reviewed by the board.

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

(a) Initially: The board is newly created in the 2010 session of the General Assembly. Although it cannot identify costs with exactitude, the board will be expending funds for overhead, staff, and equipment.

(b) On a continuing basis: The board is newly created in the 2010 session of the General Assembly. Although it cannot identify costs with exactitude, the board will be expending funds for overhead, staff, and equipment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does directly establish fees.

(9) Tiering: Is tiering applied? Yes. The regulation includes separate requirements for the two levels of licensure, Behavior Analyst and Assistant Behavior Analyst.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
201 KAR 43:040E

This emergency administrative regulation establishes the code of ethical standards and standards of practice required for licensure by the Kentucky Applied Behavior Analysis Licensing Board. This emergency administrative regulation must be placed into effect immediately in order ensure that the public is protected through the licensure of Applied Behavior Analyst by the Board. No licenses can be issued until the administrative regulation is promulgated. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVE BESHEAR, Governor
MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analysis Licensing Board
(New Emergency Administrative Regulation)

201 KAR 43:040E. Code of ethical standards and standards of practice.

RELATES TO: KRS 319C.060(1), 319C.060(2)(c)
STATUTORY AUTHORITY: KRS 319C.060(2)(c)
EFFECTIVE: April 29, 2011
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(c) require the board to adopt a code of ethical standards and standards of practice for all licensed behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide the code of ethical standards and standards of practice.

Section 1. Definitions. (1) "Behavior analyst" means a person credentialed under KRS Chapter 319C.

(2) "Client" means a person who meets the requirements established in Section 2 of this administrative regulation.

(3) "Confidential information" means information revealed by a client or clients or otherwise obtained by a behavior analyst in a professional relationship.

(4) "Court order" means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if the authority has been lawfully delegated to the magistrate or administrator.

(5) "Professional relationship" means a mutually agreed upon relationship between a behavior analyst and a client for the purpose of the client obtaining the behavior analyst's professional expertise.

(6) "Professional service" means all actions of the behavior analyst in the context of a professional relationship with a client.

(7) "Supervisee" means a person who functions under the extended authority of the behavior analyst to provide behavioral services.

Section 2. Client Requirements. (1) Identification of a client. A client shall be a person who receives:

(a) An evaluation, assessment, or professional services;

(b) Other professional services for the purpose of practicing applied behavior analysis or applied behavior analysis interventions; or

(c) Consultation regarding applied behavior analysis or applied behavior analysis interventions in the context of a professional relationship.

(2) A corporate entity or other organization shall be considered the client if the professional contract is to provide a professional service of benefit to the corporate entity or organization.

(3) A legal guardian of a minor or legally incompetent adult shall be considered the client for a decision-making purposes.

(4) A person identified as a client pursuant to subsections (1)-(3) of this section shall be deemed to continue to be a client for a period of two (2) years following the last date of service rendered to the person.

Section 3. Competence. (1) Limits on practice. The behavior analyst shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience.

(2) Maintaining competency. The behavior analyst shall maintain current competency in the areas in which he or she practices, through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge.

(3) Adding new services and techniques. The behavior analyst, if developing competency in a service or technique that is new either to the behavior analyst or new to the profession, shall engage in ongo-

ing consultation with other behavior analyst or relevant professionals and shall obtain appropriate education and training. The behavior analyst shall inform a client of the innovative nature and the known risks associated with the service, so that the client can exercise freedom of choice concerning the service.

(4) Referral. The behavior analyst shall make or recommend referral to other professional, technical, or administrative resources if a referral is clearly in the best interests of the client.

(5) Sufficient professional information. A behavior analyst rendering a formal professional opinion in a report, letter, or testimony about a person shall not do so without direct and substantial professional contact with or a formal assessment of that person.

(6) Maintenance and retention of records.

(a) The behavior analyst rendering professional services to an individual client, or services billed to a third-party payor, shall maintain professional records that include:

1. The presenting problem, purpose or diagnosis from another mental health professional;

2. The fee arrangement;

3. The date and substance of each professional contact or service;

4. Test results or other evaluative results obtained and the basic test data from which the results were derived;

5. Notation and results of a formal consult with another provider; and

6. A copy of all test or other evaluative reports prepared as part of the professional relationship.

(b) The behavior analyst shall ensure that all records are maintained for a period of not less than six (6) years after the last date that services were rendered.

(c) The behavior analyst shall store and dispose of written, electronic and other records in a manner which shall ensure their confidentiality.

(d) For each person supervised pursuant to KRS Chapter 319C, the behavior analyst shall maintain for a period of not less than six (6) years after the last date of supervision a record of each supervisory session that shall include the type, place, date, and general content of the session.

(7) Continuity of care. The behavior analyst shall make arrangements for another appropriate professional or professionals to provide for an emergency need of a client, as appropriate, during a period of his or her foreseeable absence from professional availability.

Section 4. Impaired Objectivity and Dual Relationships. (1) Impaired behavior analyst.

(a) The behavior analyst shall not undertake or continue a professional relationship with a client if the objectivity or competency of the behavior analyst is impaired due to a mental, emotional, physiologic, pharmacologic, or substance abuse condition.

(b) If an impairment develops after a professional relationship has been initiated, the behavior analyst shall:

1. Terminate the relationship in an appropriate manner;

2. Notify the client in writing of the termination; and

3. Assist the client in obtaining services from another professional.

(2) Prohibited dual relationships.

(a) The behavior analyst shall not undertake or continue a professional relationship with a client, or the client's parent or legal guardian, if the objectivity or competency of the behavior analyst is impaired because of the behavior analyst's present or previous familial, social, sexual, emotional, financial, supervisory, administrative, or legal relationship with the client or a relevant person associated with or related to the client.

(b) The behavior analyst, in interacting with a client, the client's parent or legal guardian, shall not:

1. Engage in verbal or physical behavior toward the client, or the client's parent or legal guardian, which is sexually seductive, demeaning, or harassing;

2. Engage in sexual intercourse or other physical intimacy with the client or the client's parent or legal guardian; or

3. Enter into a potentially exploitative relationship with the client, or the client's parent or legal guardian.

(c) The prohibitions established in paragraph (b) of this subsection shall extend indefinitely if the client is clearly vulnerable, by reason of emotional or cognitive disorder, to exploitative influence by the behavior analyst.

Section 5. Client Welfare. (1) Providing explanation of procedures. The behavior analyst shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client. The behavior analyst shall keep the client fully informed as to the purpose and nature of an evaluation, treatment, or other procedure, and of the client's right to freedom of choice regarding services provided.

(2) Termination of services.

(a) If professional services are terminated, the behavior analyst shall offer to assist the client in obtaining services from another professional.

(b) The behavior analyst shall:

1. Terminate a professional relationship if the client is not benefiting from the services; and

2. Prepare the client appropriately for the termination.

(3) Stereotyping. The behavior analyst shall not impose on the client a stereotype of behavior, values, or roles related to age, gender, religion, race, disability, nationality, sexual preference, or diagnosis which would interfere with the objective provision of professional services to the client.

(4) Solicitation of business by clients. The behavior analyst providing services to an individual client shall not induce that client, or the client's parent or legal guardian, to solicit business on behalf of the behavior analyst.

(5) Referrals on request. The behavior analyst providing services to a client shall make an appropriate referral of the client to another professional if requested to do so by the client.

Section 6. Welfare of Supervisees and Research Subjects. (1) Welfare of supervisees. The behavior analyst shall not exploit a supervisee.

(2) Welfare of research subjects. The behavior analyst shall respect the dignity and protect the welfare of his or her research subjects, and shall comply with all relevant statutes and administrative regulations concerning treatment of research subjects.

Section 7. Protecting the Confidentiality of Clients. (1) General. The behavior analyst shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional services. Except as provided in this section, the behavior analyst shall obtain the informed written consent of the client prior to disclosing confidential information.

(2) Disclosure without informed written consent. The behavior analyst shall disclose confidential information without the informed consent of the client if the behavior analyst has a duty to warn an intended victim of the client's threat of violence pursuant to KRS 202A.400 or 645.270.

(3) Disclosure if the client is a corporation or other organization. If the client is a corporation or other organization, the requirements for confidentiality established in this section shall:

(a) Apply to information that pertains to:

1. The corporation or organization; or

2. An individual, including personal information, if the information is obtained in the proper course of the contract; and

(b) Not apply to personal information concerning an individual if the individual had a reasonable expectation that the information was:

1. Obtained in a separate professional relationship between the behavior analyst and the individual; and

2. Subject to the confidentiality requirements established in this section.

(4) Services involving more than one (1) interested party. If more than one (1) party has an appropriate interest in the professional services rendered by the behavior analyst to a client or clients, the behavior analyst shall clarify to all parties prior to rendering the services the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.

(5) Multiple clients. If service is rendered to more than one (1) client during a joint session, the behavior analyst shall at the beginning of the professional relationship clarify to all parties the manner in which confidentiality shall be handled.

(6) Legally dependent clients. At the beginning of a professional

relationship the behavior analyst shall inform a client who is below the age of majority or who has a legal guardian, of the limit the law imposes on the right of confidentiality with respect to his or her communications with the behavior analyst.

(7) Limited access to client records. The behavior analyst shall limit access to client records to preserve their confidentiality and shall ensure that all persons working under the behavior analyst's authority comply with the requirements for confidentiality of client material.

(8) Release of confidential information. The behavior analyst shall release confidential information upon court order or to conform with state law, including KRS 422.317, or federal law or regulation.

(9) Reporting of abuse of children and vulnerable adults. The behavior analyst shall be familiar with the relevant law concerning the reporting of abuse of children and vulnerable adults, and shall comply with those laws, including KRS 620.030.

(10) Discussion of client information among professionals. If rendering professional services as part of a team or if interacting with other appropriate professionals concerning the welfare of the client, the behavior analyst may share confidential information about the client if the behavior analyst takes reasonable steps to ensure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

(11) Disguising confidential information. If case reports or other confidential information is used as the basis of teaching, research, or other published reports, the behavior analyst shall exercise reasonable care to ensure that the reported material is appropriately disguised to prevent client identification.

(12) Observation and electronic recording. The behavior analyst shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded only with the informed written consent of the client.

(13) Confidentiality after termination of professional relationship. The behavior analyst shall continue to treat as confidential information regarding a client after the professional relationship between the behavior analyst and the client has ceased.

Section 8. Representation of Services. (1) Display of credentials. The behavior analyst shall display his or her current credential to practice on the premises of his or her professional office.

(2) Misrepresentation of qualifications. The behavior analyst shall not misrepresent directly or by implication his or her professional qualifications such as education, experience, or areas of competence.

(3) Misrepresentation of affiliations. The behavior analyst shall not misrepresent directly or by implication his or her affiliations, or the purposes or characteristics of institutions and organizations with which the behavior analyst is associated.

(4) False or misleading information. The behavior analyst shall not include false or misleading information in a public statement concerning professional services offered.

(5) Misrepresentation of services or products. The behavior analyst shall not associate with or permit his or her name to be used in connection with a service or product in a way which misrepresents:

(a) The service or product;

(b) The degree of his or her responsibility for the service or product; or

(c) The nature of his or her association with the service or product.

(6) Correction of misrepresentation by others. The behavior analyst shall correct others who misrepresent the behavior analyst's professional qualifications or affiliations.

Section 9. Disclosure of Cost of Services. The behavior analyst shall not mislead or withhold from a client, prospective client, or third party payor, information about the cost of his or her professional services.

Section 10. Assessment Procedures. (1) Confidential information. The behavior analyst shall treat as confidential assessment results or interpretations regarding an individual.

(2) Protection of integrity of assessment procedures. The behavior analyst shall not disseminate a test in a way that may invalidate it.

(3) Information for professional users. The behavior analyst offering an assessment procedure or automated interpretation service to another professional shall accompany this offering by a manual or other printed material which describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The behavior analyst shall state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The behavior analyst shall ensure that advertisements for the assessment procedure or interpretive service are factual.

Section 11. Aiding Illegal Practice. (1) Delegating professional responsibility. The behavior analyst shall not delegate professional responsibilities to a person not appropriately credentialed or otherwise appropriately qualified to provide professional services.

(2) Providing supervision. The behavior analyst shall exercise appropriate supervision over a supervisee.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

APPROVED BY AGENCY: March 21, 2011

FILED WITH LRC: April 29, 2011 at 4 p.m.

CONTACT PERSON: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky, 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the code of ethical standards and standards of practice for licensed Behavior Analysts or Assistant Behavior Analysts.

(b) The necessity of this administrative regulation: This administrative is necessary to set the code of ethical standards and standards of practice for licensed Behavior Analysts or Assistant Behavior Analysts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(c) require the Board to adopt a code of ethical standards and standards of practice for all licensed behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide the code of ethical standards and standards of practice.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees of the requirements for ethical conduct and the standards of practice required by the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires licensees to conform their practice to the standards set forth in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in ques-

tion (3): No costs to the entities are anticipated from the requirements established by this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees will practice in a manner that conforms to current standards and protects the public.

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

(a) Initially: The board estimates that no additional costs will be incurred by this administrative regulation.

(b) On a continuing basis: The board estimates that no additional costs will be incurred by this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation amendment does not directly establish or increase fees.

(9) Tiering: Is tiering applied? No. All licensees will be required to conform their practice the standards set forth in this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY
815 KAR 10:070E

This new emergency administrative regulation establishes 815 KAR 10:070, setting forth the fee schedule for fireworks retailers in accordance with KRS 227.215 as amended during the 2011 Regular Session of the General Assembly. This emergency administrative regulation is necessary to comply with the legislative mandate for immediate registration of consumer fireworks retailers statewide in accordance with the emergency clause enactment included in HB 333 and KRS 13A.190(1)(a)(3). This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed simultaneously with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BESHEAR, Governor
JERRY LUNSFORD, Commissioner
ROBERT D. VANCE, Secretary

PUBLIC PROTECTION CABINET
Department of Housing, Buildings And Construction
Division of Fire Prevention
(New Emergency Administrative Regulation)

815 KAR 10:070E. Consumer fireworks retailer registration and fees.

RELATES TO: HB 333 Section 1, 227.700, 227.702, 227.704, 227.708, 227.710, 227.750, 227.782.

STATUTORY AUTHORITY: KRS 227.715.

EFFECTIVE: May 10, 2011

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.715 requires the department to establish registration requirements and fees for any person, firm, co-partnership, non-profit, or business intended to sell consumer fireworks in the Commonwealth. This administrative regulation establishes the registration forms, submission process and fees for consumer firework retailers.

Section 1. Filing of Annual Registration by Consumer Fireworks Retailers. (1) No retailer shall offer for sale, sell at retail, or keep with intent to sell consumer fireworks without annually registering with the Kentucky State Fire Marshal.

(2) All retailers of consumer fireworks required by KRS 227.715 to annually register with the State Fire Marshal shall submit to the Division of Fire Prevention:

(a) A completed Fireworks Registration Application (Form FM 32-03); and

(b) A nonrefundable annual fee as established in Section two (2) of this administrative regulation; and

(c) Evidence that a current sales and use tax permit has been obtained from the Department of Revenue.

(3) Registration shall not be complete until a Fireworks Registration Application, payment of appropriate fireworks retailer fee, and evidence of current sales and use tax permit are received and processed by the Division of Fire Prevention, State Fire Marshal.

Section 2. Fee Schedule for Registration of Consumer Fireworks Retailers. (1) The annual consumer fireworks retailer application and renewal fees for each retail site shall be:

(a) Twenty (25) dollars for registration of retailers intending to sell consumer fireworks described in KRS 227.702(1);

(b) $250 for registration of seasonal retailers intending to sell consumer fireworks described in KRS 227.702(2) and (3) between June 10th and July 7th, or December 26th and January 4th; and

(c) $500 for registration of permanent retailers whose primary source of business is the sale of consumer fireworks as defined in KRS 227.702(2) and (3).

(2) If registration is received less than fifteen (15) days prior to offering fireworks for sale at the site for which registration is submitted, an additional $100 shall be added to the initial fee.

(3) Application, renewal and late registration fees are nonrefundable.

Section 3. Payment of Fees. A fee submitted to the Division of Fire Prevention, State Fire Marshal shall be made payable to the Kentucky State Treasurer.

(1) If a fee is returned to the Division of Fire Prevention for nonpayment or insufficient funds, the payor shall pay thirty-five (35) dollars, unless proof of financial institution error is provided.

(2) If a submitted check is returned to the division for insufficient funds, the payor shall not, for a period of at least six (6) months, make a payment to the Division of Fire Prevention by personal check.

Section 4. Incorporation by Reference. (1) Form FM 32-03, "Fireworks Registration Application", May 2011, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Fire Prevention, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, Monday through Friday, 8 a.m. to 4:30 p.m.

JERRY T. LUNSFORD, Commissioner
ROBERT D VANCE, Secretary
APPROVED BY AGENCY: May 6, 2011
FILED WITH LRC: May 10, 2011 at 9 a.m.
CONTACT PERSON: Dawn M. Bellis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, phone (502 573-0365, ext 144, fax (502) 573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dawn M. Bellis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and fees for registration of consumer firework retailers/locations within the Commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to update the current fees amended by statute and establish additional registration fees in compliance with HB 333 (2011 Regular Session of the General Assembly).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227.715 requires the department to establish fees and process for the registration of consumer firework retailers and locations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation amendment establishes the fees for registration of retailers of consumer fireworks as allowed by law within the Commonwealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable as this is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable as this is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227.715 requires the department to establish fees for the registration of consumer firework retailers and locations.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation sets forth the registration application process, forms and fees for consumer fireworks retailers within the Commonwealth.

(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 the Department of Housing, Buildings and Construction, the Division of Fire Prevention, owners/operators of consumer firework retail locations and retailers who sell fireworks incidental to their primary retail business.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Consumer firework retailers (seasonal and permanent), as well as retailers who offer consumer fireworks, must register locations with the Division of Fire Prevention by submitting a form and payment of the appropriate fee established.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs associated with this amendment will depend upon the actual number of consumer firework retailers and locations. For this reason, costs cannot be accurately determined or estimated at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Registrants will be in compliance with statutory requirements enacted with passage of HB 333 (2011 Regular Session of the General Assembly).

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

(a) Initially: Additional costs anticipated to implement this regulation will reflect any new costs of administering the newly expanded consumer fireworks retailer registration program.

(b) On a continuing basis: Costs for subsequent years are anticipated to remain similar to those in the initial year of implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The fire prevention and public safety fund for the Division of Fire Prevention established in KRS 227.782.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The fees established within this administrative regulation are intended to offset expenditures of administering the registration of consumer fireworks retailers within the Commonwealth. This is a restricted fund program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increases any fees: This administrative regulation amends by decreasing previously established fees for registration of consumer firework sales locations and establishes fees for seasonal and permanent retailers selling consumer fireworks as allowed by law.

(9) TIERING: Is tiering applied? Tiering is not applicable to this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Fire Prevention and local governments will be affected by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by HB 333 (2011 Regular Session of the General Assembly).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year. The Department anticipates revenues of approximately $122,500.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years. The Department anticipates the revenues generated to remain fairly constant in subsequent years.

(c) How much will it cost to administer this program for the first year? Undetermined as the administrative regulation includes registration fees for entities that previously were not present in the Commonwealth (i.e. retailer's whose primary source of business is selling consumer fireworks). This will be a variable that cannot be assessed at this time.

(d) How much will it cost to administer this program for subsequent years? For the reasons stated in subsection (c), this cannot be determined at this time.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Estimated $122,500.

Expenditures (+/-): Any excess above operational costs (estimated at $95,740) shall be used for public education as statutorily authorized by KRS 227.220(3)(f) and 227.782(4) as amended during the 2011 Regular Session of the General Assembly.

Other Explanation:

STATEMENT OF EMERGENCY
900 KAR 5:020E

This emergency administrative regulation is being promulgated to implement changes to the State Health Plan to modify Certificate of Need criteria for applications for special care neonatal beds. Changes to the review criteria will allow an existing hospital with an occupancy rate for special care Level II neonatal beds greater than seventy (70) percent to add up to four (4) additional acute care beds as special care Level II neonatal beds. This change will allow hospitals with higher occupancy rates to add beds so that newborns will not be required to be transferred to other hospitals with vacancies in Level II neonatal beds, due to insufficient capacity of the hospital of birth. This will allow mothers and newborns to remain in the same hospital, guarantees the health, safety and welfare of the newborn, and provides continuity of care. An ordinary administrative regulation is not sufficient because the changes are necessary for the health, safety and welfare of newborns. Failure to enact this administrative regulation on an emergency basis will compromise the health, safety and welfare of newborns that require services in a Level II neonatal bed. This emergency administrative regulation shall be replaced by an ordinary administrative regulation to be concurrently filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy
(Emergency Amendment)

900 KAR 5:020E. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010-216B.130

STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(27), 216B.040(2)(a)2a

EFFECTIVE: May 6, 2011

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The 2011 Update to the 2010-2012 State Health Plan shall be used to:

(1) Review a certificate of need application pursuant to KRS 216B.040; and

(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(28)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference. (1) The "2011 Update to the 2010-2012 State Health Plan", May[~~March~~] 2011, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Health Policy, 275 East Main Street, fourth floor, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ERIC FRIEDLANDER, Deputy Secretary
JANIE MILLER, Secretary

APPROVED BY AGENCY: May 6, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TEIRING STATEMENT

Contact Person: Eric Friedlander, (502) 564-7042

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the State Health Plan, which is used to determine whether applications for certificates of need are consistent with plans as required by KRS 216B.040.

(b) The necessity of this administrative regulation: KRS 216B.015(27) requires that the State Health Plan be prepared. Changes to the State Health Plan are necessary to change Certificate of Need application review criteria for Special Care Neonatal Beds. This administrative regulation incorporates the 2011 Update to the 2010 - 2012 State Health Plan by reference to provide the needed review criteria. Changes to the review criteria will allow an existing facility with an occupancy rate for special care Level II neonatal beds greater than seventy (70) percent to add up to four (4) additional acute care beds as special care Level II neonatal beds. This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The preparation of the State Health Plan is required by KRS 216B.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The preparation of the State Health Plan is required by KRS 216B.

(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 will update the 2010 - 2012 State Health Plan review criteria will allow an existing facility with an occupancy rate for special care Level II neonatal beds greater than seventy (70) percent to add up to four (4) additional acute care beds as special care Level II neonatal beds. This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.

(b) The necessity of the amendment to this administrative regulation: KRS 216B.015(27) requires that the State Health Plan be prepared triennially. Changes to the review criteria will allow an existing facility with an occupancy rate for special care Level II neonatal beds greater than seventy (70) percent to add up to four (4) additional acute care beds as special care Level II neonatal beds. This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment carries out the requirement of KRS 216B.015(27) which requires that the State Health Plan to provide Certificate of Need requirements.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide an updated State Health Plan for purposes of certificate of need review.

(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 health care providers governed by the Certificate of Need law, citizens who use health care in Kentucky, health planners in the Certificate of Need Program, and local communities that plan for, use, or develop community health care facilities.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administra-

tive regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The modifications will apply to potential Certificate of Need applicants for special care neonatal beds. They will now be allowed to apply for additional acute care beds that will be used as special care Level II neonatal beds.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to entities to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.

(5) Provide an estimate of how much it will cost the administrative body 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: No funding is necessary since there is no cost to implementing this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.

(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.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment may impact any government owned, controlled or proposed healthcare facilities or services.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.015(27) requires that the State Health Plan be prepared. This administrative regulation incorporates the 2011 Update to the 2010 - 2012 State Health Plan by reference.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No impact to revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenues will be generated to state or local government.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

KENTUCKY STATE BOARD OF ELECTIONS
(As Amended at ARRS, May 10, 2011)

31 KAR 6:030. Uniform definition of a vote.

RELATES TO: KRS 117.265, 117.379, 117.381, 42 U.S.C. 15481

STATUTORY AUTHORITY: KRS 117.015(1), 42 U.S.C. 15481(a)(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. 42 U.S.C. 15481(a)(6) requires each state to adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the state. This administrative regulation establishes those standards.

Section 1. Definitions. (1) "Accessibility device" means any mechanism**:**

(a) Used to aid the voter in casting a vote for a candidate or an answer to a question on the ballot; and

(b) That is approved pursuant to KRS 117.379 and 117.381. **[**~~used to aid the voter in casting his or her vote for a candidate or an answer to a question on a ballot and is approved pursuant to KRS 117.379 and 117.381.~~**]**

(2) "Ballot" is defined by KRS 117.375(6).

(3) "Ballot label" is defined by KRS 117.375(5).

(4) "Direct recording electronic voting system" or "DRE voting system" means a computer-driven unit that counts votes cast by a voter through the use of a touchscreen, a button, or an approved accessibility device, and that processes and records the data by means of internal memory devices.

(5) "First name" means an individual's name or names given at birth, as distinguished from a family name or surname.

(6) "Name" means one (1) or more first names coupled with one (1) or more surnames.

(7) "Nickname" means a shortened version of an individual's name or a descriptive or alternative name, in addition to or instead of the first name or surname of an individual.

(8) "**Overvote" means a voter has made more than the permitted number of selections in a single race except when a voter casts a vote using a straight party option and votes for an opposing candidate in a particular race.**

(9) "[~~Optical~~]Scan voting system" means a tabulating device that reads paper ballots by detecting voters' marks by electronic means [~~using reflected or absorbed light~~]. **[**~~(9) "Overvote" means a voter has made more than the permitted number of selections in a single race except when a voter casts a vote using a straight party option and votes for a candidate in a particular race.~~**]**

(10) "Surname" means the family name bestowed at birth, acquired by marriage, or legally adopted by choice.

(11) "Touchscreen" means a screen on a DRE voting system that the voter touches to enter **[**~~his or her~~**]** selections in casting a ballot in an election.

(12) "Write-in vote" means a vote on a ballot on which the voter writes, types, or uses an approved accessibility device to record, the surname of an eligible write-in candidate in the space reserved on the ballot for write-in votes and, on a paper [~~an optical scan~~] ballot, properly marks the oval or box or connects the arrow according to the directions provided to the voter.

Section 2. A ballot may be paper or electronic.

Section 3. Definition of a Vote for the Direct Recording Electronic Voting System.

(1) A vote on a direct recording electronic voting system shall be the choice made when a voter selects a candidate, or the desired answer to a question, and touches the screen, presses a button, or uses an approved accessibility device to cast a ballot.

(2) To select a candidate or an answer to a question, the voter shall:

(a) Press the appropriate place on the touchscreen, press the button, or use an approved accessibility device to choose a candidate or answer to a question for which the voter desires to vote;

(b) Type on the touchscreen or use the scrolling device to select on the screen the letters for the name of a write-in candidate in accordance with the instructions for voting on the DRE voting system and press the appropriate place on the touchscreen or press the button to record the write-in vote; or

(c) Press the appropriate place on the ballot label to designate a write-in candidate and write in the name of an eligible candidate on the paper provided in the write-in candidate window.

(3) To cast a ballot, the voter shall:

(a) Press the place on the touchscreen or press the button designated for casting the ballot; or

(b) Use an approved accessibility device for the accessible voting unit to signify the voter's desire to cast the ballot.

Section 4. Definition of a Vote for the [~~Optical~~] Scan Voting System. (1) Automatic tabulation. If ballots are tabulated electronically, a vote cast on **a [**~~an~~**]** [~~optical~~] scan voting system shall be the choice made by a voter by:

(a) Filling in the oval or box or connecting the arrow next to the candidate's name or the question choice; or

(b) Writing in the name of an eligible candidate in the designated write-in space and filling in the oval or box or connecting the arrow next to the designated write-in space.

(2) Manual tabulation. If ballots are tabulated manually, the following marks made by a voter shall constitute a vote for a candidate or question choice on an optical scan voting system:

(a) The majority of an oval, box, or arrow designating a candidate or question choice is filled in;

(b) The oval, box, or arrow next to the candidate's name or the question choice is circled or underlined;

(c) The candidate's name or the question choice is circled or underlined;

(d) The party, group, organization, or independent status abbreviation next to the candidate's name is circled or underlined;

(e) There is an "X", a check mark, a plus sign, an asterisk, a star, or any other mark indicating the intent of the voter next to the candidate's name or question choice; or

(f) There is a diagonal, horizontal, or vertical line:

1. A portion of which intersects two (2) points on the oval or arrow next to the candidate's name or the question choice; and

2. That does not intersect another oval or arrow at any two (2) points. [~~(g) If a voter designates a choice to vote a straight political party ticket, and also designates a vote for an opposing candidate in a specific race, the vote shall be counted for the opposing candidate for that specific race and the remaining votes on the ballot shall be counted for the straight political party.~~]

(3) Manual tabulation of write-in voting.

(a) If write-in ballots are tabulated manually, the following shall constitute a valid vote for a candidate:

1. The oval, box, or arrow next to the area designated for the selection of a write-in candidate is marked consistent with subsection (2) of this section; and

2. The voter shall write the name of an eligible write-in candidate as provided in [~~under~~] KRS 117.265 [~~is written~~] in the area designated for the selection of a write-in candidate.

(b) If a voter designates a vote for a named candidate on the ballot and also writes in the name of a different person, these actions shall be considered an overvote, with neither candidate receiving credit for the vote, except as provided in Section 7 of this

administrative regulation.

(4) Manual tabulation of other marks or words. If a choice is indicated in accordance with subsection (2) or (3) of this section, and another choice is similarly marked constituting an overvote, the voter may take one (1) of the following actions to cancel the overvote:

(a) If the voter used a pencil, the voter may erase the mark for the candidate **the voter [**~~he or she~~**]** does not wish to select; or

(b) If the voter used ink, the voter may circle the name of the candidate **the voter[**~~he or she~~**]** wishes to select.

Section 5. Definition of a Vote for a Paper Ballot. (1) Tabulation. The following marks made by a voter shall constitute a vote for a candidate or question choice on a paper ballot:

(a) The majority of an oval,[~~a~~] box, or space designating a candidate or question choice is filled in;

(b) The oval, box, or space next to the candidate's name or the question choice is circled or underlined;

(c) The candidate's name or the question choice is circled or underlined;

(d) The party, group, organization, or independent status abbreviation next to the candidate's name is circled or underlined;

(e) There is an "X", a check mark, a plus sign, an asterisk, a star, or any other mark indicating the intent of the voter next to the candidate's name or question choice; or

(f) There is a diagonal, horizontal, or vertical line:

1. A portion of which intersects two (2) points on the oval, box, or space next to the candidate's name or the question choice; and

2. That does not intersect another oval, box, or space at any two (2) points. [~~(g) If a voter designates a choice to vote a straight political party ticket, and also designates a vote for an opposing candidate in a specific race, the vote shall be counted for the opposing candidate for that specific race and the remaining votes on the ballot shall be counted for the straight political party.~~]

(2) Write-in voting on a paper ballot.

(a) The following shall constitute a valid vote for a candidate:

1. The oval, box, or space next to the area designated for the selection of a write-in candidate is marked consistent with subsection (1) of this section; and

2. The name of an eligible write-in candidate as provided in [~~under~~] KRS 117.265 is written in the area designated for the selection of a write-in candidate.

(b) If a voter designates a vote for a named candidate on the ballot and also writes in the name of a different person, these actions shall be considered an overvote, with neither candidate receiving credit for the vote, except as provided in Section 7 of this administrative regulation.

(3) Other marks or words on a paper ballot. If a choice is indicated in accordance with subsection (1) or (2) of this section, and another choice is similarly marked constituting an overvote, the voter may take one (1) of the following actions to cancel the overvote:

(a) If the voter used a pencil, the voter may erase the mark for the candidate **the voter [**~~he or she~~**]** does not wish to select; or

(b) If the voter used ink, the voter may circle the name of the candidate **the voter[**~~he or she~~**]** wishes to select.

Section 6. Definition of a Vote for Write-in Voting Generally. (1) Only votes cast for eligible write-in candidates as provided in [~~under~~] KRS 117.265 shall be considered valid and counted.

(2) A write-in vote for a candidate whose name already appears on the ballot label as a candidate shall not be counted as a vote as provided in [~~under~~] KRS 117.265.

(3) The use of stickers, labels, rubber stamps, or other similar devices shall not be counted as write-in votes.

(4) Any minor misspelling of the name of a candidate shall be disregarded in determining the validity of a write-in vote as long as the intended candidate may be clearly determined.

(5) Writing in only the surname of an eligible candidate shall constitute a valid vote, unless there is more than one (1) filed candidate with the same surname for that office. If there is more than one (1) filed candidate with the same surname for that office, writing in only the last name or surname shall not constitute a vote.

(6) Writing in only the first name of an eligible candidate shall not constitute a valid vote.

(7) Writing in only the initials of a candidate shall not constitute a vote.

(8) Writing in only the nickname of an eligible candidate shall not constitute a valid vote.

(9) If the voter writes in any other name along with the surname of an eligible write-in candidate, the other name written by the voter shall comply with the variations of names listed by the candidate on SBE/SOS/01, SBE/SOS/02, or SBE/SOS/03, depending on the candidate, to constitute a valid vote.

(10) Writing in the surname of the candidate for Governor or the surname of the candidate for Lieutenant Governor shall be sufficient to cast a write-in vote for the slate.

(11) Writing in the surname of the candidate for President or the surname of the candidate for Vice President shall be sufficient to cast a write-in vote for the slate.

Section 7. Straight Party Voting. (1) For all voting systems and types of ballots, if a voter designates a choice to vote a straight political party ticket and also designates a vote for an opposing candidate whose name appears on the ballot or writes in the name of an eligible write-in candidate in a specific race, the vote shall be counted for the opposing candidate or the eligible write-in candidate for that specific race and the remaining votes on the ballot shall be counted for the straight political party.

(2) Straight party voting shall not be considered an overvote if cast in a manner consistent with subsection (1) of this section. [~~This administrative regulation shall not diminish the powers granted to the State Board of Elections and County Boards of Elections established by KRS Chapter 117.~~]

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) SBE/SOS/01-"Declaration of Intent to be a Write-In Candidate", February 2011 edition[~~(June 2007 edition)~~];

(b) SBE/SOS/02-"Presidential/Vice Presidential Candidates' Declaration of Intent to be Write-In Candidates", February 2011 edition[~~(June 2007 edition)~~]; **and**

(c) SBE/SOS/03-"Governor/Lieutenant Governor Candidates' Declaration of Intent to be a Write-In Candidates", February 2011 edition[~~(June 2007 edition)~~]**. [** ~~;~~**]**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

HON. ELAINE WALKER, Chair

APPROVED BY AGENCY: February 15, 2011

FILED WITH LRC: March 10, 2011 at 9 a.m.

CONTACT PERSON: Kathryn H. Gabhart, General Counsel, Kentucky State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-7100, fax (502) 573-4369.

GENERAL GOVERNMENT CABINET
Kentucky Board of Hairdressers and Cosmetologists
(As Amended at ARRS, May 10, 2011)

201 KAR 12:083. Educational requirements.

RELATES TO: KRS 317A.050, 317A.140, 317B.025(1)(c), (4)(c)

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

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" provided by the board.

(2) The applicant shall furnish proof that 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) A transcript of subjects and grades showing the applicant has completed grade 10[~~grades nine (9) and ten (10)~~];

(b) Results from the Test for Adult Basic Education (TABE) [~~G.E.D. test~~] indicating a score equivalent to tenth grade high school [~~as determined by the Department of Education~~]; or

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

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

(1) A high school diploma; **[**~~or~~**]**[~~A transcript of subjects and grades showing the applicant has completed 12th grade.~~]

(2) A G.E.D.; or[~~indicating score equivalent to 12th grade high school as determined by the Department of Education.~~]

(3) Results from the Test for Adult Basic Education (TABE) indicating a score equivalent to 12th grade high school.[~~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 student **shall [**~~may~~**]**[~~shall~~] not receive credit hours if the application is not received within the ten (10) day period.

(3) The school shall forward to the board the enrollment application and proof of education so that the board receives the information no later than ten (10) working days after the student date of enrollment.

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

Section 4. (1) A person shall not be permitted to enroll in a school of cosmetology for a brush-up course unless:

(a) The applicant holds a current license issued by this board; or

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

(2) The applicant shall complete the application for enrollment.

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.

BEA COLLINS, President

APPROVED BY AGENCY: February 10, 2011

FILED WITH LRC: February 11, 2011 at 3 p.m.

CONTACT PERSON: Charles Lykins, 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.

GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended at ARRS, May 10, 2011)

201 KAR 20:490. Licensed practical nurse intravenous therapy scope of practice.

RELATES TO: KRS 314.011(10)(a), (c)

STATUTORY AUTHORITY: KRS 314.011(10)(c), 314.131(1), 314.011(10)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.011(10)(c) authorizes the board to promulgate an administrative regulation to establish the scope of practice for administering medicine or treatment by a licensed practical nurse**.[**~~, and~~**]** KRS 314.011(10)(a) requires that licensed practical nurses practice under the direction of a registered nurse, physician, or dentist. This administrative regulation establishes the scope of that practice as it relates to intravenous therapy.

Section 1. Definitions. (1) "Administration" means to initiate and infuse intravenous therapy.

(2) "Antineoplastic agent" means a medication that prevents the development, growth, or proliferation of malignant cells.

(3) "Bolus" means a concentrated medication or solution given rapidly over a short period of time.

(4) "Central venous access device" means a catheter that is inserted in such a manner that the distal tip is located in the superior vena cava, inferior vena cava, or heart, including a peripherally-inserted central catheter and an implanted port.

(5) "Direction" means a communication of a plan of care that is based upon assessment of a patient by an advanced practice registered nurse, a registered nurse, physician, or dentist that establishes the parameters for the provision of care or for the performance of a procedure.

(6) "Discontinuance" means to stop the infusion of the medication or fluid and does not include removal of the intravenous access device.

(7) "Fibrinolytic agent" means a pharmaceutical agent capable of dissolving blood clots.

(8) "Intravenous access device" means either a peripheral access device or a central venous access device.

(9) "Mix" or "mixing" means to combine two (2) or more medications or solutions, and includes reconstituting a powder into a liquid, and diluting a medication or solution.

(10) "Moderate sedation" means the administration of intravenous medications to produce a state that intentionally results in a depressed level of consciousness in a patient.

(11) "Peripheral access device" means a peripherally-inserted intravenous catheter or needle that is less than or equal to three (3) inches in length.

(12) "Pharmacology" means information on the classification of intravenous drugs, indications for use, pharmacological properties, monitoring parameters, contraindications, dosing, clinical mathematics, anticipated side effects, potential complications, antidotal therapy, compatibilities, stabilities, specific considerations for select intravenous drugs, and administration of intravenous medications to pediatric, adult, and geriatric populations.

(13) "Procedural sedation" means the administration of intravenous medications to produce a state that allows a patient to tolerate unpleasant procedures and results in a depressed level of consciousness.

(14) "Push" means administration of medication under pressure via a syringe.

(15) "Supervision" means the provision of guidance by a registered nurse, advanced practice registered nurse, physician or dentist for the accomplishment of a nursing task with periodic observation and evaluation of the performance of the task including validation that the nursing task has been performed in a safe manner.

(16) "Supervisor" means the registered nurse, advanced practice registered nurse, physician or dentist who provides supervision of the licensed practical nurse's practice as defined in subsection (15) of this section.

(17) "Therapeutic phlebotomy" means a clinical procedure whereby blood volume is reduced to achieve a therapeutic outcome.

(18) "Titration" means adjustment of a medication dosage or rate of solution infusion as prescribed within a therapeutic range that is based on the assessment of a patient.

(19) "Vesicant" means an agent capable of causing injury if it escapes from the intended vascular pathway into surrounding tissue.

Section 2. Education and Training Standards. (1) Prior to performing intravenous (IV) therapy, the licensed practical nurse (LPN) shall have completed education and training related to the scope of IV therapy for an LPN. This education and training shall be obtained through:

(a) A prelicensure program of nursing for individuals admitted to the program after **September 15, 2004** **[**~~the effective date of this administrative regulation~~**]**; or

(b) An institution, practice setting, or continuing education provider that has in place a written instructional program and a competency validation mechanism that includes a process for evaluation and documentation of an LPN's demonstration of the knowledge, skills, and abilities related to the safe administration of IV therapy. The LPN shall receive and maintain written documentation of completion of the instructional program and competency validation.

(2) The education and training programs recognized in subsection (1) of this section shall be based on "Policies and Procedures for Infusion Nursing" and shall include the following components:

(a) Technology and clinical applications;

(b) Fluid and electrolyte balance;

(c) Pharmacology and vesicants;

(d) Infection control;

(e) Transfusion therapy;

(f) Parenteral nutrition; and

(g) Legal aspects based on KRS Chapter 314 and this administrative regulation.

Section 3. Supervision Requirements. (1) An LPN performing IV therapy procedures shall be under the direction and supervision of a registered nurse (RN), advanced practice registered nurse (APRN), physician, or dentist.

(2) For a patient whose condition is determined by the LPN's supervisor to be stable and predictable, and rapid change is not anticipated, the supervisor may provide supervision of the LPN's provision of IV therapy without being physically present in the immediate vicinity of the LPN, but shall be readily available.

(3) In the following cases, for the LPN to provide IV therapy, the LPN's supervisor shall be physically present in the immediate vicinity of the LPN and immediately available to intervene in the care of the patient:

(a) If a patient's condition is or becomes critical, fluctuating, unstable, or unpredictable;

(b) If IV medications or fluids are administered by push or bolus administration, except for saline or heparin to maintain patency of an IV access device;

(c) If a patient has developed signs and symptoms of an IV catheter-related infection, venous thrombosis, or central line catheter occlusion;

(d) If a patient is receiving blood, blood components, or plasma volume expanders; or

(e) If a patient is receiving peritoneal dialysis or hemodialysis.

Section 4. Standards of Practice. (1) An LPN shall perform only those IV therapy acts for which the LPN possesses the knowledge, skill, and ability to perform in a safe manner, except as limited by Section 6 of this administrative regulation and under supervision as required by Section 3 of this administrative regulation.

(2) An LPN shall consult with an RN or physician, physician assistant, dentist, or advanced practice registered nurse and seek guidance as needed if:

(a) The patient's care needs exceed the licensed practical nursing scope of practice;

(b) The patient's care needs surpass the LPN's knowledge, skill, or ability; or

(c) The patient's condition becomes unstable or imminent assistance is needed.

(3) An LPN shall obtain instruction and supervision as necessary if implementing new or unfamiliar nursing practices or procedures.

(4) An LPN shall follow the written, established policies and procedures of the facility that are consistent with KRS Chapter 314.

Section 5. Functions That May Be Performed. An LPN who has met the education and training requirements of Section 2 of this administrative regulation may perform the following IV therapy functions, except as limited by Section 6 of this administrative regulation and under supervision as required by Section 3 of this administrative regulation:

(1) Calculation and adjustment of the flow rate on all IV infusions;

(2) Observation and reporting of subjective and objective signs of adverse reactions to any IV administration and initiate appropriate interventions;

(3) For all IV access devices:

(a) Administration of IV fluids and medications via central venous and peripheral access devices as permitted by this section and **not** prohibited by Section 6 of this administrative regulation;

(b) Performance of site care and maintenance that includes:

1. Monitor access site and infusion equipment;

2. Change administration set, including add-on device and tubing;

3. Flushing; and

4. Change site dressing;

(c) Discontinuance of a medication or fluid infusion; and

(d) Conversion of a continuous infusion to an intermittent infusion;

(4) Insertion or removal of a peripheral access device;

(5) Administration, monitoring, and discontinuance of blood, blood components, and plasma volume expanders;

(6) Administration of IV medications and fluids that are mixed and labeled by an RN, APRN, physician, dentist, or pharmacist or are commercially prepared;

(7) Mixing and administration via push or bolus route of any of the following classifications of medications:

(a) Analgesics;

(b) Antiemetics;

(c) The antagonistic agents for analgesics;

(d) Diuretics;

(e) Corticosteroids; and

(f) Saline or heparin to maintain patency of an IV access device;

(8) Administration of glucose to patients fourteen (14) years of age or older via direct push or bolus route;

(9) Administration, monitoring, and discontinuance of IV medications and fluids given via a patient controlled administration system;

(10) Administration, monitoring, and discontinuance of parenteral nutrition and fat emulsion solutions;

(11) Performance of dialysis treatment, including:

(a) Administering Heparin 1:1000 units or less concentration either to prime the pump, initiate treatment, or for administration throughout the treatment, in an amount prescribed by a physician, physician's assistant, or advanced **practice** registered nurse **[**~~practitioner~~**]**. The licensed practical nurse shall not administer Heparin in concentrations greater than 1:1000; and

(b) Administering normal saline via the dialysis machine to correct dialysis-induced hypotension based on the facility's medical protocol. Amounts beyond that established in the facility's medical protocol shall not be administered without direction from a registered nurse or a physician;

(12) Collection of blood specimens from a peripheral IV access device only at the time of initial insertion;

(13) Removal of a noncoring needle from an implanted venous port;

(14) Titration of intravenous analgesic medications for hospice patients;

(15) Administration of peripheral intravenous medications via a volumetric control device;

(16) Administration of intravenous medications or solutions via a ready-to-mix intravenous solution infusion system; and

(17) Aspiration of a central venous catheter to confirm patency via positive blood return.

Section 6. Functions that Shall Not be Performed. An LPN shall not perform the following IV therapy functions:

(1) Administration of tissue plasminogen activators, immunoglobulins, antineoplastic agents, or investigational drugs;

(2) Accessing of a central venous access device used for hemodynamic monitoring;

(3) Administration of medications or fluids via arterial lines or implanted arterial ports;

(4) Administration of medications via push or bolus route except as permitted by Section 5(7) or (8) of this administrative regulation;

(5) Administration of a fibrinolytic agent to declot any IV access device;

(6) Administration of medications requiring titration, except as permitted by Section 5(14) of this administrative regulation;

(7) Insertion or removal of any IV access device, except as permitted by Section 5(4) or (13) of this administrative regulation;

(8) Accessing or programming an implanted IV infusion pump;

(9) Administration of IV medications for the purpose of procedural sedation, moderate sedation, or anesthesia;

(10) Administration of fluids or medications via an epidural, intrathecal, intraosseous, or umbilical route, or via a ventricular reservoir;

(11) Administration of medications or fluids via an arteriovenous fistula or graft, except for dialysis;

(12) Performance of the repair of a central venous access device;

(13) Mixing of any medications other than those listed in Section 5(7) of this administrative regulation;

(14) Insertion of noncoring needles into an implanted port; **[**~~or~~**]**

(15) Performance of therapeutic phlebotomy;

(16) Administration of medications or fluids via a percutaneously or surgically inserted nontunneled, nonimplanted central venous catheter;

(17) Aspiration of an arterial line;

(18) Withdrawal of blood specimens via a central venous catheter; or

(19) Initiation and removal of a peripherally inserted central, midclavicular, or midline catheter.

Section 7. Incorporation by Reference. (1) "Policies and Procedures for Infusion Nursing", Third Edition (2006), Infusion Nurses Society, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

CAROL A. KOMARA, RN, MSN, Board President

APPROVED BY AGENCY: February 11, 2011

FILED WITH LRC: March 3, 2011 at noon

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251, email nathan.goldman@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, May 10, 2011)

301 KAR 3:100. Special commission permits.

RELATES TO: KRS 150.170, 150.175[~~, 150.177~~]

STATUTORY AUTHORITY: KRS 150.025, 150.177, 150.195(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue **a special permit to an incorporated nonprofit wildlife conservation organization [**~~special game permits to incorporated nonprofit wildlife conservation organizations~~**]**. KRS 150.195(1) authorizes the department to promulgate administrative regulations pertaining to the issuance of licenses and permits. This administrative regulation establishes the requirements for the issuance and use of Special Commission Permits.[~~; KRS 150.177 authorizes the commission to donate special permits per species to qualified wildlife conservation organizations. This administrative regulation specifies the process for applying for those permits.~~]

Section 1. Definitions. (1) "Proceeds" means the amount of money received by a wildlife conservation organization from[~~after~~] the sale or transfer of a special permit minus[~~and after the deduction of~~] expenses directly attributable to the sale of that permit.

(2) "**Incorporated nonprofit wildlife conservation organization" means an entity which:**

(a) Holds status as a nonprofit organization pursuant to 26 U.S.C. Section 501(c)(3);

(b) Is incorporated under the laws of this state or any other state; or

(c) Holds a charter status under an incorporated parent organization; and

(d) Whose purpose is to:

1. Conserve and enhance fish and wildlife resources; or

2. Provide opportunities for hunting, fishing, trapping, or other related activities.

(3) "Special permit" means a permit for a species requiring an additional permit in order to hunt or fish which is issued by the Kentucky Fish and Wildlife Commission to a nonprofit wildlife conservation organization. **[**~~(3) "Wildlife conservation organization" means a 501(c)(3) nonprofit organization whose primary purpose is to:~~

~~(a) Conserve and enhance fish and wildlife resources; or~~

~~(b) Provide opportunity for hunting, fishing, trapping, or other related activities.~~**]**

Section 2. Issuance, Sale and Transfer of Special Permit. (1) There shall be no more than ten (10) special permits issued per species per year.

(2)**(a) Any incorporated nonprofit[**A**]** wildlife conservation organization**[**~~, including the parent organization and any Kentucky chapter,~~**]** may apply for one (1) special commission permit per species by accurately completing a Special Commission Permit Application form provided by the department.

(b) A national organization and its affiliated regional, state, and local chapters shall all be eligible to apply for a special permit in the same year provided that each organization meets the qualifications in Section 1(2) of this administrative regulation.

(3) In addition to the completed application, the organization shall also submit the following:

(a) One (1) copy of the organization's articles of incorporation or a separate charter status from a parent organization;

(b) Written proof of the organization's tax-exempt status including the individual tax identification number;

(c) A letter from the organization's parent organization, if applicable, that states that the chapter organization is in good-standing and is recognized by the parent organization.

(4) The completed application and accompanying documents listed in subsection (3) of this section shall be delivered to the department by May 1 of each year.

(5) The following shall be grounds for disqualification from the consideration process:

(a) An incomplete application;

(b) Incomplete or missing accompanying documents, pursuant to subsection (3) of this section;

(c) Failure to submit the required application and accompanying documents to the department by the May 1 deadline; and

(d) The wildlife conservation organization applicant did not use or transfer a special commission permit awarded in a previous year.

(6) Prior to selecting special commission permit recipients, the Fish and Wildlife Commission shall review and consider all applications and documents submitted by each wildlife conservation organization that has not been disqualified pursuant to subsection (5) of this section.

(7) The department shall provide the Fish and Wildlife Commission with information concerning each applicant's relative standing with regard to:

(a) Content and quality of submitted application materials;

(b) Past compliance;

(c) Ability to generate matching funds; and

(d) The proposed conservation project's potential for enhanced fish and wildlife, habitats, or fish and wildlife-related recreation **in Kentucky**.

(8) The Fish and Wildlife Commission shall select permit recipients based on the information listed in subsection (7) of this section.

(9) A Special Commission Permit recipient shall:

(a) Use all proceeds from the sale or transfer of the permit for conservation projects in Kentucky as approved by the Fish and Wildlife Commission;

(b) Underwrite all promotional and administrative costs for the selling and transferring of the permit;

(c) Sell and transfer each permit as stated in the application;

(d) Provide the department with the following information on each individual who receives a transferred permit:

1. Name;

2. Address; and

3. Date of birth; and

(e) Submit, by May 1 of the following year, a report that includes:

1. A financial statement containing:

a. Total funds raised;

b. Overhead costs or expenses related to the sale of the permit; and

c. Net profit;

2. A summary of:

a. The conservation project; and

b. Expenditures related to the conservation project; and

3. A synopsis of the impact the conservation project had on fish and wildlife, habitats, or fish and wildlife-related recreation.

Section 3. Special Permit Use. (1) A special permit shall only be valid for the:

(a) Individual named on the permit;

(b) Species of wildlife listed on the permit; and

(c) Next season following the quarterly commission meeting that the special permit was awarded.

(2) A special commission permit holder shall comply with all other department statutes and **administrative** regulations.

(3) **A holder of a special commission permit to hunt deer:**

(a) Shall be entitled to take one (1) additional antlered or antlerless deer per license year; and

(b) May hunt on any Wildlife Management Area during an open deer season or nonmobility impaired quota hunt pursuant to 301 KAR 2:178, except:

1. Hunting shall not be allowed on closed waterfowl refuges, pursuant to 301 KAR 2:222;

2. A permit holder shall contact the wildlife area manager at least forty-eight (48) hours before hunting; and

3. A permit holder shall notify the area manager upon leaving a Wildlife Management Area.

(4) A holder of a special commission permit to hunt wild turkey:

(a) Shall be entitled to take one (1) additional turkey of either sex per license year, in addition to the statewide permit limit; and

(b) Shall not hunt on a Wildlife Management Area that is closed to turkey hunting.

(5) A holder of a special commission permit to hunt elk shall follow the requirements established in 301 KAR 2:132.

(6) A holder of a special commission permit to hunt waterfowl may hunt on Ballard, Boatwright, or Sloughs Wildlife Management Areas from one of the areas' permanent waterfowl blinds by:

(a) Contacting the department no later than September 30; and

(b) Reserving a blind for one of the available hunt periods established by the department, pursuant to 301 KAR 2:222.

(7) A holder of a special commission permit to fish for trout shall follow the requirements established in 301 KAR 1:060 and 1:201.

(8) A holder of any special commission permit may hunt or fish on private land with the permission of the landowner.

(9) [~~Notwithstanding any other statutory or regulatory provision, a holder of a special commission permit:~~

~~(a) For deer, shall be entitled to take one (1) additional antlered or antlerless deer per license year;~~

~~(b) For deer, may hunt on any Wildlife Management Area during an open deer season or nonmobility impaired quota hunt pursuant to 301 KAR 2:178, except:~~

~~1. Hunting shall not be allowed on closed waterfowl refuges, pursuant to 301 KAR 2:222;~~

~~2. A permit holder shall contact the wildlife area manager at least forty-eight (48) hours before hunting; and~~

~~3. A permit holder shall notify the area manager upon leaving a Wildlife Management Area;~~

~~(c) For turkey, shall be entitled to take one (1) additional turkey of either sex per license year, in addition to the statewide permit limit;~~

~~(d) For turkey, shall not hunt on a Wildlife Management Area that is closed to turkey hunting; and~~

~~(e) May hunt on private land with the permission of the landowner.~~

~~(4)~~**]** Unless specific equipment is prohibited on a Wildlife Management Area, a special permit holder shall only harvest game with hunting equipment that is allowed for the season during which the permit holder is hunting.

Section 4. Incorporation by Reference. (1) "Special Commission Permits Application Form", 2011 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.[~~An applicant may apply for one (1) special permit per species by the May 1 deadline for applications.~~

~~(3) A proposal for special permit pursuant to KRS 150.177 shall be submitted to the Kentucky Fish and Wildlife Commission during the period prior to May 1. The proposal shall contain and identify:~~

~~(a) The name of the organization making the request and the names, addresses and telephone numbers of those members of the organization who are coordinating the proposal;~~

~~(b) The permit requested and the species and year for which it would be valid;~~

~~(c) The proposed wildlife conservation projects for which the proceeds would be used;~~

~~(d) The methods by which the permit would be transferred to an individual;~~

~~(e) The estimated amount of money to be raised and the rationale for that estimate;~~

~~(f) Any special needs or particulars relevant to the proposal, including time frame, limitations, or schedules; and~~

~~(g) One (1) copy of the organization's articles of incorporation shall accompany the proposal with proof that the organization has tax-exempt status.~~

~~(4) A letter accompanying the proposal shall include a statement that the applicant agrees to the conditions set forth in KRS 150.177 and this administrative regulation and shall be signed and dated by the authorized officer of the organization.~~

~~(5) The commission shall return to the applicant any application which does not conform with the requirements of KRS 150.177 or this administrative regulation. In selecting an applicant, the commission shall consider the written proposal and the proposed uses for the proceeds, the qualifications of the applicant as a fund raiser, the proposed fund raising plan, the applicant's previous involvement with wildlife management, and its conservation objectives. Proposals from previous successful applicants may not be considered if permits issued to them were not used or transferred. The commission may accept any proposal in whole or in part and may reject any proposal. Commission approval and issuance of any special permit is contingent upon compliance with subsections (2), (5), and (6) of this administrative regulation.~~

~~(6) All successful applicants shall agree in writing to the following:~~

~~(a) To use all proceeds from the sale or transfer of the permit~~

~~for conservation projects in Kentucky that are approved by the Kentucky Fish and Wildlife Commission;~~

~~(b) To underwrite all promotional and administrative costs to sell and transfer the special permit;~~

~~(c) To sell and transfer each special permit as described in the proposal;~~

~~(d) To provide the department with the name, address, and physical description of each individual to whom each special permit is transferred.~~

~~(e) To provide the department, within one (1) year of issuance of the special permit, a report summarizing:~~

~~1. The amount of money raised; and~~

~~2. The specific impact the money had on the proposed conservation project in the application submitted to and approved by the Kentucky Fish and Wildlife Commission.~~

~~Section 3. Use of Permits. (1) A special permit shall be valid only for the individual named on the permit and for the species for which the permit was issued. A special permit shall be valid for the forthcoming season following the commission meeting in which the special permit was awarded.~~

~~(2) A person using a special permit shall comply with all state laws and administrative regulations, including seasons, bag limits and size restrictions.~~

~~(3) Notwithstanding any other provision of law, a holder of a special permit for deer shall be entitled to take one (1) additional antlered or antlerless deer per license year.~~

~~(4) Notwithstanding any other provision of law, a holder of a special permit for turkey shall be entitled to take one (1) additional turkey of either sex per license year, in addition to the statewide permit. A holder of a special permit for turkey may not hunt on Wildlife Management Areas that are closed to the general public during the turkey season.~~

~~(5) Notwithstanding any other provision of law, a holder of the special permit for deer may hunt on any Wildlife Management Area, including Wildlife Management Areas otherwise closed for special hunts or otherwise closed to hunting, except hunting shall not be allowed on waterfowl refuges that are closed. A holder shall contact the wildlife area manager at least forty-eight (48) hours before hunting. A holder shall also notify the area manager upon leaving a Wildlife Management Area.~~

~~(6) Unless specific equipment is prohibited on a Wildlife Management Area, a holder of a special permit shall use the legal hunting equipment that is allowed for the season occurring when the holder is hunting, as well as any other hunting requirements in place during that season.~~

~~(7) A holder of a special permit may also hunt on private land with the permission of the landowner, but shall comply with the restrictions regarding the season where the land is located.~~]

BENJY KINMAN, Deputy Commissioner
For DR. JONATHAN GASSETT, Commissioner
MARCHETA SPARROW, Secretary
APPROVED BY AGENCY: December 3, 2010
FILED WITH LRC: February 15, 2011 at 9 a.m.
CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136.

EDUCATION CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS, May 10, 2011)

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

RELATES TO: KRS 156.070(2)
STATUTORY AUTHORITY: KRS 156.070(2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(2) requires the Kentucky Board of Education (KBE) to manage and control the common schools, including interscholastic athletics in the schools, and authorizes the KBE to designate an agency to manage athletics. This administrative regulation designates an agent for high school athletics; establishes the financial planning and review processes for the agent; and incorporates by reference the bylaws, procedures and rules of the agent.

Section 1. The Kentucky High School Athletic Association (KHSAA) shall be the Kentucky Board of Education's agent to manage interscholastic athletics at the high school level in the common schools, including a private school desiring to associate with KHSAA and to compete with a common school.

Section 2. To remain eligible to maintain the designation as the agent to manage interscholastic athletics, the KHSAA shall:

(1) Accept four (4) at-large members appointed by the Kentucky Board of Education to its governing body;

(2) Sponsor an annual meeting of its member schools;

(3) Provide for each member school to have a vote on constitution and bylaw changes submitted for consideration;

(4) Provide for regional postseason tournament net revenues to be distributed to the member schools in that region participating in that sport, utilizing a share approach determined by the schools within that region playing that sport;

(5) Require its governing body to annually establish goals and objectives for its commissioner and perform a self-assessment and submit the results annually to the KBE by October 31;

(6) Advise the Department of Education of all legal action brought against the KHSAA by October 31;

(7) Permit a board of control member to serve a maximum of two (2) consecutive four (4) year terms with no region represented for more than eight (8) consecutive years;

(8) Employ a commissioner and evaluate that person's performance annually by October 31, and establish all staff positions upon recommendation of the commissioner;

(9) Permit the commissioner to employ other personnel necessary to perform the staff responsibilities;

(10) Permit the Board of Control to assess fines on a member school;

(11) Utilize a trained independent hearing officer instead of an eligibility committee for an appeal;

(12) Establish a philosophical statement of principles to use as a guide in an eligibility case;

(13) Conduct field audits of the association’s entire membership over a five (5) year period regarding each school’s compliance with 20 U.S.C. Section 1681 (Title IX) and submit summary reports including the highlighting of any deficiencies in compliance on a regular (not less than three (3) times annually) basis to the Kentucky Board of Education as requested;

(14) As a condition precedent to membership, require each member school and superintendent to annually submit a written certification of compliance with 20 U.S.C. Section 1681 (Title IX);

(15) Conduct all meetings in accordance with KRS 61.805 through 61.850;

(16) Provide written reports of any investigations into possible violations of statute, administrative regulation, KHSAA Constitution, bylaws, and other rules governing the conduct of interscholastic athletics conducted by KHSAA or their designees to the superintendent and principal of the involved school district and school prior to being made public: and

(17) Not punish or sanction, in any manner, a school, student, coach, or administrator for allowing a student to play in an athletic contest or practice with the team during a time when an order of a court of competent jurisdiction permits the student to participate or otherwise stays or enjoins enforcement of a KHSAA final decision on eligibility.

Section 3. Financial Planning and Review Requirements. (1) KHSAA shall annually submit the following documents to the KBE by October 31:

(a) Draft budget for the next two (2) fiscal years, including the current year;

(b) End-of-year budget status report for the previous fiscal year;

(c) Revisions to the KHSAA Strategic Plan as a result of an

annual review of the plan by the KHSAA governing body;

(d) A summary report of operations including summaries of financial, legal, and administrative actions taken and other items ongoing within KHSAA. This report shall also include a summary of items affecting:

1. Athletic appeals and their disposition including the name of the individual, grade, school, and the action taken by KHSAA;

2. Eligibility rules;

3. Duties of school officials;

4. Contests and contest limitations;

5. Requirements for officials and coaches; and

6. Results of a biennial review of its bylaws that results in a recommendation for a change, directing any proposals for change in association rules to be considered for vote by the member schools at the next legislative opportunity; and

(e) A review of all items which have been submitted to the membership for approval through the processes established in the KHSAA Constitution and the result of the voting on those issues.

(2) The KHSAA shall annually submit by December 31, audited financial statements with the KHSAA Commissioner's letter addressing exceptions or notes contained in management correspondence, if any.

Section 4. **The materials incorporated by reference in Section 5** **[**~~The bylaws,~~**]**[~~tournament rules,~~] **[**~~and due process procedures, Board of Control policies, membership renewal application, new member application, of the KHSAA Handbook, Fall 2011,~~**]**[~~Fall 2009, September 10,2007,~~] shall apply to high school interscholastic athletics in Kentucky.

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

(a) "**KHSAA Constitution", 4/2009;**

(b) "KHSAA Bylaws", 4/2011;

(c) "KHSAA Due Process Procedure", 4/2009;

(d) "KHSAA Board of Control Policies", 4/2011;

(e) "KHSAA Officials Division Guidebook", 4/2011;

(f) "KHSAA Form BA101- Baseball Pitching Limitation", 4/2009;

(g) "KHSAA Form FB102- Football Financial Report", 9/7/2009;

(h) "KHSAA Form FB103- Football Spring Football Practice", 4/2011;

(i) "KHSAA Form FB109- Football Scrimmage Report", 7/2009;

(j) "KHSAA Form FB122- Football Contact Practice Log", 6/2009;

(k) "KHSAA Form GE1- Membership Renewal", 5/2011;

(l) "KHSAA Form GE2- New Membership Application", 5/2011;

(m) "KHSAA Form GE3- Participation List", 4/2009;

(n) "KHSAA Form GE4- Physician & Parental Permission Form", 4/2009;

(o) "KHSAA Form GE6- Domestic Transfer", 5/2011;

(p) "KHSAA Form GE7- Non Domestic Eligibility", 5/2011;

(q) "KHSAA Form GE14- Contract for Athletic Contests", 4/2009;

(r) "KHSAA Form GE16- Statutory Waiver of Bylaw 3", 5/2011;

(s) "KHSAA Form GE18- Survey for Sports Offerings", 5/2011;

(t) "KHSAA Form GE19- Title IX Procedures Verification", 5/2011;

(u) "KHSAA Form GE20- Heat Index Record", 4/2009;

(v) "KHSAA Form GE26- Financial Aid Report", 5/2011;

(w)" KHSAA Form GE35- Waiver - 20 Day Notice", 5/2011;

(x) "KHSAA Form GE36- Add. Info for Appeal", 5/2011;

(y) "KHSAA Form GE39- Report of Need Based Financial Aid Awarded", 5/2011;

(z)" KHSAA Form GE52- District Tournament Financial Report, 5/2011;

(aa)" KHSAA Form GE53- Region Tournament Financial Report", 5/2011;

(bb)" KHSAA Form GE69- Waiver - 15 Day Exceptions", 5/2011;

(cc)" KHSAA Form SO103- Soccer Section/SubSection Financial Report", 5/2011;

(dd) "KHSAA Form T1- Title IX Accom. Of Interests & Abilities", 5/2011;

(ee) "KHSAA Form T2- Title IX Accom. Of Interests & Abilities", 5/2011;

(ff) "KHSAA Form T3- Title IX Accom. Of Interests & Abilities", 5/2011;

(gg) "KHSAA Form T35- Title IX Actual Expenditures Comparison 1 + Booster Club", 5/2011;

(hh) "KHSAA Form T36- Title IX Actual Expenditures Comparison 2 + Booster Club", 5/2011;

(ii) "KHSAA Form T4- Title IX Accom. Of Interests & Abilities", 5/2011;

(jj) "KHSAA Form T41- Title IX Athletics Audit Checklist", 5/2011;

(kk) "KHSAA Form T50- Title IX Title IX Re-Visit",5/2011;

(ll) "KHSAA Form T60- Title IX Corrective Action", 5/2011;

(mm) "KHSAA Form T61- Title IX Interscholastic Athletics Student Survey", 5/2011;

(nn) "KHSAA Form T63- Title IX Interscholastic Athletics Survey", 5/2011;

(oo) "KHSAA Form T70- Title IX Participation Opportunities", 5/2011;

(pp) "KHSAA Form T71- Title IX Benefits - Summary 1", 5/2011;

(qq) "KHSAA Form T72- Title IX Benefits - Summary 2", 5/2011;

(rr) "KHSAA Form T73- Title IX Re-Visit - Publicity Support Group", 5/2011;

(ss) "KHSAA Form T74- Title IX Re-Visit – Corrective Action Summary Chart", 5/2011

(tt) "KHSAA Form WR101- Wrestling Permission Form", 12/2009;

(uu) "KHSAA Form WR111- Wrestling Skin Condition & Unconscious", 5/2011;

(vv) "KHSAA Form WR126- Wrestling Weight Certif. Program Assessor", 9/2009. **[**~~"KHSAA Constitution", Fall 2011~~**]**[~~4/2009~~]**[**~~;~~

~~(b) "KHSAA Bylaws", 4/2009;~~

~~(c) "KHSAA Due Process Procedure", 4/2009;~~

~~(d) "KHSAA Board of Control Policies", 4/2009;~~

~~(e) "KHSAA Officials Division Guidebook", 4/2009;~~

~~(f) "KHSAA Form BA101- Baseball Pitching Limitation", 4/3/2009;~~

~~(g) "KHSAA Form BA106- Baseball Tournament Financial Report - District", 2/1/1998;~~

~~(h) "KHSAA Form BA107- Baseball Tournament Financial Report - Regional", 4/1/1998;~~

~~(i) "KHSAA Form BA108- Baseball Tournament Financial Report - Semi State", 4/7/2009;~~

~~(j) "KHSAA Form BK105- Basketball Tournament Financial Report - District", 1/6/2009;~~

~~(k) "KHSAA Form BK106- Basketball Tournament Financial Report - Regional", 1/6/2009;~~

~~(l) "KHSAA Form FB102- Football Financial Report", 9/7/2009;~~

~~(m) "KHSAA Form FB103- Football Spring Football Practice", 2/5/2009;~~

~~(n) "KHSAA Form FB109- Football Scrimmage Report", 7/8/2009;~~

~~(o) "KHSAA Form FB122- Football Contact Practice Log", 6/6/2009;~~

~~(p)" KHSAA Form GE1- Membership Renewal", 7/9/2009;~~

~~(q) "KHSAA Form GE2- New Membership Application", 4/9/2009;~~

~~(r) "KHSAA Form GE3- Participation List", 4/9/2009;~~

~~(s) "KHSAA Form GE4- Physician & Parental Permission Form", 4/9/2009;~~

~~(t) "KHSAA Form GE6- Domestic Transfer", 6/8/2009;~~

~~(u) "KHSAA Form GE7- Non Domestic Eligibility", 4/9/2009;~~

~~(v) "KHSAA Form GE14- Contract for Athletic Contests", 4/9/2009;~~

~~(w) "KHSAA Form GE15- Certification of Eligibility", 4/9/2009;~~

~~(x) "KHSAA Form GE16- Statutory Waiver of Bylaw 3", 7/7/2009;~~

~~(y) "KHSAA Form GE18- Survey for Sports Offerings", 4/8/2009;~~

~~(z) "KHSAA Form GE19- 09-10 Title IX Procedures Verification", 4/9/2009;~~

~~(aa) "KHSAA Form GE20- Heat Index Record", 4/9/2009;~~

~~(bb) "KHSAA Form GE26- Financial Aid Report", 4/9/2009;~~

~~(cc)" KHSAA Form GE35- Waiver - 20 Day Notice", 6/7/2009;~~

~~(dd) "KHSAA Form GE36- Add. Info for Appeal", 6/7/2009;~~

~~(ee) "KHSAA Form GE39- Report of Need-Based Financial Aid Awarded", 9/1/2009;~~

~~(ff) "KHSAA Form SB106- Softball Financial Report - District", 5/6/2009;~~

~~(gg) "KHSAA Form SB108- Softball Financial Report - Region", 4/6/2009;~~

~~(hh) "KHSAA Form SB111- Softball Transportation & Declaration Form", 4/6/2009;~~

~~(ii)HSAA Form SO101- Soccer Financial Report - District", 4/9/2009;~~

~~(jj) "KHSAA Form SO102- Soccer Financial Report - Region", 4/9/2009;~~

~~(kk) "KHSAA Form SO103- Soccer Financial Report - Sub-Sectional", 4/9/2009;~~

~~(ll) "KHSAA Form SO104- Soccer Financial Report - Sectional", 4/9/2009;~~

~~(mm) "KHSAA Form SO111- Soccer Hard Cast / Face Mask / Concussion", 7/6/2009;~~

~~(nn) "KHSAA Form SW105- Swimming Financial Report - Region", 1/6/2009;~~

~~(oo) "KHSAA Form SW119- Swimming Transportation & Declaration Form", 1/6/2009;~~

~~(pp) "KHSAA Form T1- Title IX Accom. Of Interests & Abilities", 4/9/2009;~~

~~(qq) "KHSAA Form T2- Title IX Accom. Of Interests & Abilities", 4/9/2009;~~

~~(rr) "KHSAA Form T3- Title IX Accom. Of Interests & Abilities", 10/8/2009;~~

~~(ss) "KHSAA Form T35- Title IX Actual Expenditures Comparison 1 + Booster Club", 4/9/2009;~~

~~(tt) "KHSAA Form T36- Title IX Actual Expenditures Comparison 2 + Booster Club", 4/9/2009;~~

~~(uu) "KHSAA Form T4- Title IX Accom. Of Interests & Abilities", 4/9/2009;~~

~~(vv) "KHSAA Form T41- Title IX Athletics Audit Checklist", 4/9/2009;~~

~~(ww) "KHSAA Form T50- Title IX Title IX Re-Visit", 4/1/2000;~~

~~(xx) "KHSAA Form T60- Title IX Corrective Action", 4/1/2000;~~

~~(yy) "KHSAA Form T61- Title IX Interscholastic Athletics Student Survey", 4/9/2009;~~

~~(zz) "KHSAA Form T63- Title IX Interscholastic Athletics Survey", 4/9/2009;~~

~~(aaa) "KHSAA Form T70- Title IX Participation Opportunities", 4/9/2009;~~

~~(bbb) "KHSAA Form T71- Title IX Benefits - Summary 1", 4/9/2009;~~

~~(ccc) "KHSAA Form T72- Title IX Benefits - Summary 2", 4/9/2009;~~

~~(ddd) "KHSAA Form T73- Title IX Re-Visit - Publicity Support Group", 4/9/2009;~~

~~(eee) "KHSAA Form VB101- Volleyball Financial Report", 8/6/2009;~~

~~(fff) "KHSAA Form WR101- Wrestling Permission Form", 12/5/2009;~~

~~(ggg) "KHSAA Form WR111- Wrestling Skin Condition & Unconscious", 9/8/2009;~~

~~(hhh) "KHSAA Form WR119- Wrestling Declaration Form", 1/1/1999; and~~

~~(iii) "KHSAA Form WR126- Wrestling Weight Certif. Program Assessor", 9/6/2009.~~

~~(jjj) "Kentucky High School Athletic Association Handbook, 5/2009.~~**]**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Legal and Legislative Services, Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

TERRY HOLLIDAY, PH.D., Commissioner
DAVID KAREM, Chairperson

APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 14, 2011 at 2 p.m.
CONTACT PERSON: Kevin C. Brown, General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:010. Forms for application, registration, notice filing, reporting and compliance.

RELATES TO: KRS 292.327, 292.330, 292.331, 292.332, 292.333, 292.334,[(2), (10), (13)(e),] 292.350(2), 292.360(2), 292.370(2), 292.380(2), 292.410(1)(q), 292.430(1), (2)

STATUTORY AUTHORITY: KRS 292.327(1), 292.330, 292.331(1), (5), (6), 292.332, 292.333, 292.334,[(2), (3), (10),] 292.350(2), 292.360(2), 292.370(2), 292.410(1)(q), 292.430(1), 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.327(1), 292.331(1), (5), (6), 292.332, 292.333, 292.334, [292.330(2), (3)(c),] 292.350(2), 292.360(2), 292.370(2), 292.410(1)(q), and 292.430(1) and (2) require the commissioner [executive director] to prescribe the required forms for registration or renewal registration, for a notice filing, for a registration exemption, and for withdrawal of registration. This administrative regulation establishes the required forms and incorporates by reference those forms.

Section 1. (1) Pursuant to KRS 292.331(1) [292.330(1) and (2)], Form BD, Uniform Application for Broker-Dealer Registration, shall be completed to register as a broker-dealer in Kentucky.

(2) Pursuant to KRS 292.331(1) [292.330(1) and (2)], Form U-4, Uniform Application for Securities Industry Registration or Transfer, shall be completed to:

(a) Register **as** an agent or an investment adviser representative in Kentucky; or

(b) Transfer an agent's or representative's registration to another broker-dealer, issuer, or investment adviser.

(3) Pursuant to KRS 292.331(5)[292.330(10)], Form 33-e-1, Application for Renewal of Issuer Agent Registration, shall be completed to renew registration as an issuer agent in Kentucky.

(4) Pursuant to KRS 292.331(1) and 292.332[292.330(1) and (2)], Form ADV, Uniform Application for Investment Adviser Registration, shall be completed electronically to register or notice file as an investment adviser or covered adviser in Kentucky.

(5) [~~Pursuant to KRS 292.330(10), Form 33-h-1, Application for Renewal of Investment Adviser and Representative Registration, shall be completed to renew registration as an investment adviser in Kentucky.~~

~~(6)~~] Pursuant to KRS 292.350(2), 292.360(2), and 292.370(2) [292.380(2), and 808 KAR 10:280, Section 2(1)], Form U-1, Uniform Application to Register Securities, shall be completed to register a security for sale in Kentucky by coordination, qualification, or notification[~~, or as a small corporate offering~~].

(6)[~~(7)~~] Pursuant to KRS 292.327(1), Form NF, Uniform Investment Company Notice Filing, shall be completed to make a notice filing in Kentucky.

(7)[~~(8)~~] Pursuant to KRS 292.327(2) [~~292.410(1)(q), 808 KAR~~

~~10:210, Section 1(3)(b)1, and 808 KAR 10:280, Section 2(1)~~], Form D, Notice of **Exempt Offering of Securities[**~~Sale of Securities Pursuant to Regulation D~~**]**, under Section 18(b)(4)(D) of the Securities Act of 1933 [~~Section 4(6), and/or Uniform Limited Offering Exemption~~], shall be completed to file for an exemption or register an offering under 808 KAR 10:280, Section 2(1).

(8)[~~:~~

~~(a) File for an exemption from the registration of a security under KRS 292.410(1)(q); or~~

~~(b) Register an offering under 808 KAR 10:280, Section 2(1).~~

~~(9)~~] Pursuant to KRS 292.430(1) and (2), Form U-2, Uniform Consent to Service of Process**,** shall be completed by an issuer required to file a consent to service of process.

(9)[~~(10) Pursuant to KRS 292.350(2)(b), 292.360(2)(e), and 292.370(2)(a), Form U-2A, Uniform Form of Corporate Resolution shall be completed to register a security for sale by an issuer in Kentucky.~~

~~(11)~~] Pursuant to KRS 292.334(5)[~~292.330(13)(e)~~], Form BDW, Uniform Request for Broker-Dealer Withdrawal, shall be completed if a broker-dealer withdraws his registration in Kentucky.

(10)[~~(12)~~] Pursuant to 808 KAR 10:280, Form U-7, Small Company Offering Registration, shall be completed by a company who:

(a) Meets the eligibility requirements established in that administrative regulation; and

(b) Wants to register an offering pursuant to that administrative regulation.

(11)[~~(13)~~] Pursuant to KRS 292.334(5)[~~292.330(13)(e)~~], Form U5, Uniform Termination Notice for Securities Industry Registration, shall be completed to terminate registration as an agent or investment adviser representative.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) **"**Form BD, Uniform Application for Broker-Dealer Registration**"**, **[**~~revised~~**]** January 2008[~~July 1999~~];

(b) **"**Form U4, Uniform Application for Securities Industry Registration or Transfer**"**, **[**~~revised~~**]** May 2009 [~~October 2005~~];

(c) **"**Form 33-e-1, Application for Renewal of Issuer Agent Registration**"**, **[**~~revised~~**]** May 2002;

(d) **"**Form ADV, Uniform Application for Investment Adviser Registration**"**, **[**~~revised~~**]** October 2010 [~~January 2006~~];

(e) [~~Form 33-h-1, Application for Renewal of Investment Adviser and Representative Registration, revised May 2002;~~

~~(f)~~] **"**Form U-1, Uniform Application to Register Securities**"**, January 2006;

(f)[~~(g)~~] **"**Form NF, Uniform Investment Company Notice Filing**"**, January 2006;

(g)[~~(h)~~] **"Form D, Notice of Exempt Offering of Securities", September 2008[**~~Form D, Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption, September 2008~~**]** [~~June 2002~~];

(h)[~~(i)~~] **"**Form U-2, Uniform Consent to Service of Process**"**, January 2006;

(i)[~~(j) Form U-2A, Uniform Form of Corporate Resolution, January 2006;~~

~~(k)~~] **"**Form BDW, Uniform Request for Broker-Dealer Withdrawal**"**, January 2008 [~~August 1999~~];

(j)[~~(l)~~] **"**Form U-7, Small Company Offering **Registration"**, **[**~~revised~~**]** September 1999; and

(k)[~~(m)~~] **"**Form U5, Uniform Termination Notice for Securities Industry Registration**"**, **[**~~revised~~**]** May 2009 [~~October 2005~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the:

(a) Department[~~Office~~] of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Financial Industry Regulatory Authority (FINRA) [~~National Association of Securities Dealers (NASD)~~], 1735 K Street, N.W., Washington, D.C. 20006, or a regional FINRA [~~NASD~~] office.

(3) Form ADV may also be obtained from the Securities and Exchange Commission, Branch of BD and IA Registration, 100 F Street, NE, Washington, D.C. 20549.

ROBERT D. VANCE, Secretary

CHARLES A. VICE, Commissioner

APPROVED BY AGENCY: March 14, 2011

FILED WITH LRC: March 15, 2011, at 11 a.m.

CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:030. Conduct of broker-dealers, agents, and employees; investment advisers and representatives.

RELATES TO: KRS 292.330

STATUTORY AUTHORITY: KRS 292.336(6)[~~292.330(12)(f)~~], 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner[~~executive director~~] to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.336**(6)[**~~(5)~~**]** [~~292.330(12)(f)~~] authorizes the commissioner[~~executive director~~] to promulgate administrative regulations regulating the conduct of business by broker-dealers and investment advisers. This administrative regulation establishes requirements relating to the conduct of a broker-dealer, agent, investment adviser, or representative.

Section 1. Definitions. (1) "Current brochure**" or "[**~~and~~**]**current brochure supplement" means the most recent revision of the brochure or brochure supplement, including all amendments to date.

(2) "Sponsor of a wrap fee program" means an investment adviser that is compensated under a wrap fee program for**:**

(a) Sponsoring, organizing, or administering the program**; or**

(b)[~~, or for~~**]** Selecting, or providing advice to clients regarding the selection of, other investment advisers in the program.

(3) "Wrap fee program" means an advisory program under which a specified fee or fees not based directly upon transactions in a client's account is charged for**:**

(a) Investment advisory services**, [**~~(~~**]**which may include portfolio management or advice concerning the selection of other investment advisers**;[**~~)~~**]** and

(b) The execution of client transactions.

Section 2. Suitability. A broker-dealer, agent, investment adviser, or investment adviser representative who recommends to a customer the purchase, sale or exchange of a security shall have reasonable grounds to believe that the recommendation is not unsuitable for the customer on the basis of:

(1) Information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs; and

(2) Other information known by the broker-dealer, agent, investment adviser or investment adviser representative.

Section 3.[~~2.~~] Supervision of Broker-dealer Agents. (1) Each agent shall be subject to the supervision of a supervisor designated by the broker-dealer employing the agent. The responsibilities of a designated supervisor with respect to each agent under his supervision shall include the prompt review and written approval of:

(a) The opening of each new customer account by the agent;

(b) Each securities transaction by the agent;

(c) All incoming or outgoing correspondence including postal mail, electronic mail, and faxes;

(d) All advertising, sales literature, and seminars; and

(e) The handling of any customer complaint.

(2) Either a registered principal of the broker-dealer or an agent's designated supervisor shall:

(a) Review outside business activity by the agent;

(b) Review any brokerage account owned by the agent;

(c) Periodically review customer accounts of the agent; and

(d) Regularly inspect the records of the agent at the agent's

place of business.

Section 4.[3.] Written Supervisory Procedures. (1) Broker-dealers.

(a) Each broker-dealer shall establish, maintain and enforce written procedures that:

1. Are reasonably designed to detect and prevent violations of:

a. KRS Chapter 292, 808 KAR Chapter 10, and orders issued under that chapter;

b. The rules promulgated by the Securities and Exchange Commission pursuant to 15 U.S.C. 78w; and

c. If the broker-dealer is a member of a self-regulatory organization as defined in 15 U.S.C. 78c(a)(26), the rules of the self-regulatory organization pursuant to 15 U.S.C. 78s(b); and

2. Include the procedures adopted by the broker-dealer to comply with the requirements of Section **3[**~~2~~**]** of this administrative regulation.

(b) The broker-dealer shall keep a copy of the procedures required by paragraph (a) of this subsection in each office where an agent transacts business in securities.

(2) Investment advisers.

(a) Except as provided in paragraph (b) of this subsection, each investment adviser shall:

1. Establish, maintain, and enforce written procedures that are reasonably designed to detect and prevent violations of KRS Chapter 292, 808 KAR Chapter 10, and orders issued under that chapter; and

2. Keep a copy of the procedures in each office where a representative provides investment advice to a client.

(b) The requirements established in paragraph (a) of this subsection shall not apply to an investment adviser that:

1. Has its principal place of business in a state other than Kentucky if the investment adviser is registered in that state and is in compliance with that state's written supervisory procedures requirements; or

2. Has two (2) or fewer persons registered as an investment adviser representative of the investment adviser.

Section 5. Brochure and Brochure Supplement.[~~4. Written Disclosure Statement.~~] (1) An investment adviser shall**:**

(a) Deliver to a client or prospective client a current brochure and, if applicable, current brochure supplement for a supervised person. The current brochure and current brochure supplement shall:

1. Contain all information required by Part 2 of Form ADV as incorporated by reference in 808 KAR 10:010; and

2. Be delivered before or at the time of entering into an investment advisory contract with that client;[~~furnish each advisory client and prospective advisory client with a brochure and one (1) or more brochure supplements that contain all information required by Part 2 of Form ADV as incorporated by reference in 808 KAR 10:010.~~**]** [~~written disclosure statement. This statement may be either a copy of Part II of its Form ADV or a written document containing at least the information required by Part II of the Form ADV.~~] **[**~~(2)~~**]**[~~(a) Except as provided in paragraph (b) of this subsection,~~] **[**An investment adviser must**]**[~~shall deliver the statement required by this section to an advisory client or prospective advisory client~~]**[**~~:~~

~~(a) Deliver to a client or prospective client its current brochure and current brochure supplement for a supervised person before or at the time of entering into an investment advisory contract with that client; and~~**]**

(b) Deliver to each client annually, within 120 days after the end of the investment adviser's fiscal year and without charge**[**~~, if there are material changes in the brochure since the last annual updating amendment~~**]**:

1. A current brochure; or

2. The summary of material changes to the brochure as required by Item 2 of Form ADV, Part 2A that offers to provide the current brochure without charge, accompanied by the Web site address (if available) and an e-mail address (if available) and telephone number by which a client may obtain the current brochure, and the Web site address for obtaining information about the investment adviser through the Investment Adviser Public Disclosure (IAPD) system**; and[**~~.~~**]**

(c) Deliver the following to each client promptly after creating an amended brochure or brochure supplement, as applicable, if the amendment constitutes a material revision:

1. The amended brochure or brochure supplement, as applicable, along with a statement describing the material revision; or

2. A statement describing the material revision.

(2)[~~(3)~~**]**(a) If an investment adviser is a sponsor of a wrap fee program, then the brochure that this section requires the investment adviser to deliver to a client or prospective client of the wrap fee program **shall[**~~must~~**]** be a wrap fee program brochure containing all the information required by Part 2A, Appendix 1 of Form ADV. Any additional information in a wrap fee program brochure **shall[**~~must~~**]** be limited to information applicable to wrap fee programs that the investment adviser sponsors.

(b) An investment adviser does not have to deliver a wrap fee program brochure if another sponsor of the wrap fee program delivers, to the client or prospective client of the wrap fee program, a wrap fee program brochure containing all the information required by Part 2A, Appendix 1 of Form ADV.

(c) A wrap fee program brochure **shall[**~~does~~**]** not take the place of any brochure supplements that the investment adviser is required to deliver under this section.

(3)[~~(4)~~**]** If an investment adviser provides substantially different advisory services to different clients, the investment adviser may provide them with different brochures, **if[**~~so long as~~**]** each client receives all information about the services and fees that are applicable to that client. The brochure delivered to a client may omit any information required by Part 2A of Form ADV if the information does not apply to the advisory services or fees that are provided or charged, or that are proposed to be provided or charged, to that client. [~~1. Not less than forty-eight (48) hours prior to entering into any written or oral investment advisory contract with the client or prospective client; or~~

~~2. At the time of entering into a contract, if the advisory client has a right to terminate the contract without penalty within five (5) business days after entering into the contract.~~

~~(b) Delivery of the statement required by paragraph (a) of this subsection shall not be required in connection with entering into an investment company contract or a contract for impersonal advisory services.~~

~~(3)(a) Except as provided in paragraph (b) of this subsection, an investment adviser shall, annually and without charge, deliver or offer in writing to promptly deliver upon written request, the statement required by this section to its advisory clients.~~

~~(b) The delivery or offer required by paragraph (a) of this subsection shall not be required for advisory clients receiving advisory services solely pursuant to an investment company contract or a contract for impersonal advisory services.~~

~~(4) If an investment adviser renders substantially different types of investment advisory services to different advisory clients, information required by Part II of the Form ADV may be omitted from the statement furnished to an advisory client or prospective advisory client if the information is not applicable to services rendered to that client.~~]

(4)[~~(5)~~**]** This section shall not relieve an investment adviser from an obligation, pursuant to a provision of KRS Chapter 292, 808 KAR Chapter 10, or other federal or state law, to disclose information to its advisory clients or prospective advisory clients not specifically required by this section.

Section 6.[5.] Multiple Registration. (1) A person shall not be concurrently registered as an agent of more than one (1) broker-dealer or issuer unless the person obtains prior written consent from the commissioner[~~executive director~~].

(2) A person shall not be concurrently registered as an investment adviser representative of more than one (1) investment adviser unless the person obtains prior written consent from the commissioner[~~executive director~~].

(3) A request for multiple registration shall be in writing and shall contain a statement by each employer that the employer:

(a) Consents to the multiple employment of the agent or representative; and

(b) Agrees to assume joint and several liability with all other

employers for an act or omission of the agent or representative during the employment period that violates KRS Chapter 292, 808 KAR Chapter 10, or orders issued under that chapter.

(4) The commissioner[~~executive director~~] shall consent to multiple registration pursuant to a request under subsection (3) of this section if the commissioner[~~executive director~~] finds that:

(a) The multiple registration does not impair a determination of the supervisory responsibilities of each employer with respect to the employee; and

(b) The disciplinary histories of the person and each employer are not unfavorable.

(5) The commissioner[~~executive director~~] may consent to multiple registration in other cases if the commissioner[~~executive director~~] finds that the multiple registration does not impair determination of the respective supervisory responsibilities of each employer with respect to the employee. [~~Section 6. Incorporation by Reference. (1) Form ADV, Application for Registration of an Investment Adviser, revised May 31, 1997, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.~~

~~(3) This material may also be obtained from the Securities and Exchange Commission, Branch of BD and IA Registration, Washington, D.C. 20549.~~]

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011, at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:050. Application withdrawal.

RELATES TO: KRS 292.331 [~~Chapter 292~~]
STATUTORY AUTHORITY: KRS 292.331(6), 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.331(6) authorizes the commissioner to promulgate administrative regulations that impose conditions on the registration of broker-dealers, investment advisers, investment adviser representatives, or agents. This administrative regulation **establishes application withdrawal procedures for [**~~ensures~~**][**~~To insure~~**][that]** applicants for registration as agents, broker-dealers, investment advisers, and investment adviser representatives **[**~~diligently pursue the disposition of the application~~**]**.

Section 1. An application for registration as agent, broker-dealer, investment adviser, or investment adviser representative shall be presumed to have been withdrawn if the applicant takes no affirmative action to consummate the registration for a period in excess of ninety (90) days from the date the application is received by the commissioner.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011 at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:200. Investment advisers' minimum liquid capitalization; bond.

RELATES TO: KRS 292.331(4), 292.336(6)[~~292.330(6)~~], **[**~~(7), (12)(f),~~**]** 7 U.S.C. 6f
STATUTORY AUTHORITY: KRS 292.331(4), 292.336(6), [~~292.330(6), (7), (12)(f),~~] 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner[~~executive director~~] to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.331(4)[~~292.330(6)~~] authorizes the commissioner[~~executive director~~] to require a minimum liquid net capital for investment advisers. KRS 292.336(6) [~~202.330(7) authorizes the executive director to require an investment adviser to post a surety bond in an amount up to $25,000 and to determine the conditions of the bond. KRS 292.330(12)(f)~~] authorizes the commissioner[~~executive director~~] to prescribe rules for the conduct of business by investment advisers. This administrative regulation establishes the requirements for minimum liquid capitalization and bonding for an investment adviser.

Section 1. Definitions. (1) "Custody" means holding, directly or indirectly, client funds or securities, or having any authority to appropriate them or obtain possession, in accordance with the requirements established in Section 2 of this administrative regulation.

(2) "Independent party" means a person that:

(a) Is engaged by the adviser to act as a gatekeeper for the payment of fees, expenses and capital withdrawals from the pooled investment;

(b) Does not control**, [**~~and~~**]** is not controlled by**,** and is not under common control with the adviser; and

(c) Does not have, and has not had within the past two (2) years, a material business relationship with the adviser.

(3) "Independent representative" means a person who:

(a)1. For an advisory client, acts as an agent[~~Acts as an agent for an advisory client~~]; or

2. For a pooled investment vehicle:

a. Acts as an agent for the limited partners of a limited partnership, for members of a limited liability company**,** or for other beneficial owners of another type of pooled investment vehicle; and

b. By law or contract is obligated to act in the best interests of the advisory client or the limited partners, members, or other beneficial owners;

(b) Does not control, is not controlled by, and is not under common control with the adviser; and

(c) Does not have, and has not had within the past two (2) years, a material business relationship with the adviser.

(4) "Net worth" means an excess of assets over liabilities as determined by generally-accepted accounting principles, but shall not include as assets:

(a) Deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense**,** or any other intangible asset;

(b) Home, home furnishings, automobiles, and any other items not readily marketable, if the adviser is an individual;

(c) Advances or loans to stockholders and officers or related parties of stockholders or officers, if the adviser is a corporation; [~~and~~]

(d) Advances or loans to partners or related parties of partners, if the adviser is a partnership; and

(e) Advances or loans to members or related parties of members, if the adviser is a limited liability company.

(5) "Qualified custodian" means any of the following institutions or entities not controlling and not controlled by, nor under common control with, the adviser:

(a) A bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation;

(b) A registered broker-dealer holding the client assets in cus-

tomer accounts;

(c) A registered futures commission merchant under Section 4f**(a)[**~~(A)~~**]** [~~7 U.S.C. 6f(a)~~] of the Commodity Exchange Act, 7 U.S.C. 6f(a), holding the client funds in customer accounts, but only with respect to the client funds and futures contracts in those accounts or other securities incidental to transactions in the purchase or sale of a commodity for future delivery or options thereon; and

(d) A foreign financial institution that customarily holds financial assets for its customers, if the foreign financial institution keeps the advisory client's assets in customer accounts segregated from the institution's proprietary assets.

Section 2. Custody Standards. (1) Custody shall include:

(a) Possession of client funds or securities unless the funds or securities are:

1. Received inadvertently; and

2. Returned to the sender [~~promptly,~~] within three (3) business days of the receipt of the funds or securities;

(b) Receipt of a check drawn by a client and made payable to an unrelated third party unless:

1. The check is forwarded to the third party within twenty-four (24) hours of receipt; and

2. The adviser maintains appropriate records to document the preceding;

(c) Any arrangement, including a general power of attorney, under which the adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian that are not excluded under subsection (2) of this section; [~~or~~]

(d) Any capacity that gives the adviser access or legal ownership to client funds or securities, including if the adviser is a general partner of a limited partnership, managing member[~~partner~~] of a limited liability company, or holds a comparable position for another type of pooled investment vehicle, or is trustee of a trust; or

(e) Any advance fee arrangement in which an adviser receives payment in excess of $500 for work not to be completed within six (6) months of receipt of the payment from the client.

(2) Custody shall not include an arrangement for direct deduction of fees from a client account held with a qualified custodian if the adviser provides the following safeguards:

(a) The adviser has written authorization from the client to deduct advisory fees from the account;

(b) Each time a fee is directly deducted from a client account, the adviser concurrently:

1. Sends the qualified custodian notice of the amount of the fee to be deducted; and

2. Sends the client an invoice itemizing the fee, including the formula used to calculate the fee, the amount of assets under management that the fee is based on, and the time period covered by the fee; and

(c) At least quarterly, the qualified custodian sends [~~shall send~~] to the client[~~,~~] an account statement identifying the amount of funds and each security in the account at the end of the period and setting forth all transactions in the account during that period.

Section 3. Capital Requirements. An investment adviser registered or required to register pursuant to the Securities Act of Kentucky, KRS Chapter 292, shall meet the net worth requirements established in this section:

(1) An adviser who has custody of client funds or securities, except an adviser having custody due entirely to advising pooled investment vehicles and complying with Section 4(5)[~~(6)~~] or 5(3) of this administrative regulation, shall maintain a minimum net worth as follows:

(a) For advisers with assets under management of $25,000,000 or less, the minimum net worth required shall be $35,000.

(b) For advisers with assets under management in excess of $25,000,000, the minimum net worth required shall be fifteen-hundredths of one percent (.0015) of assets under management.

(c) An adviser may substitute all but $10,000 of the net worth required under paragraphs (a) and (b) of this subsection with a surety bond for the substituted amount issued by a bonding company that is qualified to do business in Kentucky.

(2) An adviser who requires prepayment of advisory fees six (6) months or more in advance and in excess of $500 per client shall also maintain capital as required in subsection (1) of this section.

(3) An adviser who has discretionary authority over client funds or securities, but does not have custody of client funds or securities shall maintain a net worth as follows:

(a) For advisers with assets under management of $25,000,000 or less, the minimum net worth required shall be $10,000.

(b) For advisers with assets under management in excess of $25,000,000, the minimum net worth required shall be one-tenth of one percent (.001) of assets under management.

(c) An adviser may substitute, for any part of the net worth required under paragraphs (a) and (b) of this subsection, a surety bond for the substituted amount issued by a bonding company that is qualified to do business in Kentucky.

(4) An adviser shall maintain a positive net worth at all times.

(5) The commissioner may require that a current appraisal be submitted to establish the value of any material asset.

(6) An adviser shall compute its net worth at least once every month at the end of the month and shall maintain a record of each computation along with supporting documentation for a period of two (2) years. Each **[**~~such~~**]** computation shall be accompanied by documentation of the assets under management for the adviser at that point in time.

(7) If the computation of net worth results in an amount that is less than required by subsections (1) through (4) of this section, the adviser shall by the close of business on the next business day following the determination of a deficiency, notify the commissioner by facsimile or electronic mail. After transmittal of this notice, the adviser shall promptly file with the commissioner a report of its financial condition, including a balance sheet, a year-to-date income statement and copies of supporting documentation.

(8) An adviser shall not be deemed to be exercising discretion if the adviser places trade orders with a broker-dealer pursuant to a third party trading agreement if:

(a) The investment advisory contract specifically states that the client does not grant discretionary authority to the adviser and the adviser in fact does not exercise discretion with respect to the account; and

(b) A third party trading agreement is executed between the client and a broker-dealer which specifically limits the adviser's authority in the client's broker-dealer account to the placement of trade orders and deduction of adviser fees.

(9) An adviser that has its principal place of business in a state other than Kentucky shall maintain the minimum capital as required by the state in which the adviser maintains its principal place of business, if the adviser is licensed in that state and is in compliance with that state's minimum capital requirement. [~~of $35,000. An adviser may substitute up to $25,000 of the net worth requirement with a bond for the substituted amount issued by a bonding company that is qualified to do business in Kentucky.~~

~~(2) An adviser who has discretionary authority over client funds or securities, but does not have custody of client funds or securities shall maintain a minimum net worth of $10,000 or be bonded for that amount by a bonding company that is qualified to do business in Kentucky.~~

~~(3) An adviser shall maintain a positive net worth.~~

~~(4) An adviser shall not be deemed to be exercising discretion if the adviser places trade orders with a broker-dealer pursuant to a third party trading agreement if:~~

~~(a) The adviser has executed a separate investment adviser contract exclusively with its client which acknowledges that a third party trading agreement will be executed to allow the adviser to effect securities transactions for the client in the client's broker-dealer account;~~

~~(b) The investment adviser contract specifically states that the client does not grant discretionary authority to the adviser and the adviser in fact does not exercise discretion with respect to the account; and~~

~~(c) A third party trading agreement is executed between the client and a broker-dealer which specifically limits the adviser's authority in the client's broker-dealer account to the placement of~~

~~trade orders and deduction of adviser fees.~~

~~(5) An adviser that has its principal place of business in a state other than Kentucky shall maintain the minimum capital as required by the state in which the adviser maintains its principal place of business, if the adviser is licensed in that state and is in compliance with that state's minimum capital requirement.~~]

Section 4. Custody of Client Funds or Securities. An investment adviser registered or required to register pursuant to the Securities Act of Kentucky, KRS Chapter 292, shall comply with the requirements established in this section, if the adviser has custody of client funds or securities.

(1) The funds and securities shall be maintained by a qualified custodian:

(a) In a separate account for each client under that client's name; or

(b) In accounts that contain only the client's funds and securities, under the adviser's name as agent or trustee for the client.

(2) The adviser shall notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained promptly when the account is opened and following any changes to this information.

(3)(a) Account statements shall be sent to the client, either:

1. By the qualified custodian and the adviser shall have a reasonable basis for believing that the custodian sent an account statement, at least quarterly, to each of the adviser's clients for which it maintains funds or securities, identifying the amount of funds and each security in the account at the end of the period and setting forth all transactions in the account during that period; or

2. By the adviser, if the following conditions are met:

a. The adviser shall send an account statement, at least quarterly, to each client for whom the adviser has custody of funds or securities, identifying the amount of funds and each security of which it has custody at the end of the period and setting forth all transactions during the period;

b. An independent certified public accountant shall verify all client funds and securities by actual examination on an annual basis. The adviser shall file a copy of the accountant report and financial statements with the commissioner [~~executive director~~] within thirty (30) days of the completion of the examination, along with a letter from the accountant stating that it has examined the funds and securities and describing the nature and extent of the examination; and

c. The adviser, upon notice from the certified public accountant of finding any material discrepancies during the course of the examination, shall notify the commissioner [~~executive director~~] within one (1) business day of the finding, by means of a facsimile transmission or electronic mail, followed by certified first class mail.

(b) If the adviser is a general partner of a limited partnership, managing member of a limited liability company, or holds a comparable position for another type of pooled investment vehicle, the account statement required by paragraph (a) of this subsection shall be sent to each limited partner, member, other beneficial owner, or their independent representative.

(4) A client may designate an independent representative to receive on his behalf notices and account statements as required under subsections (2) and (3) of this section.

(5) An adviser who has custody and who does not meet the exception established in Section 5(3) of this administrative regulation shall, in addition to the safeguards established in subsections (1) through (4) of this section, comply with the following:

(a) Hire an independent party to review all fees, expenses, and capital withdrawals from the pooled accounts; and

(b) Send all invoices or receipts to the independent third party detailing the amount of the fees, expenses, or capital withdrawals and the method of calculation so that the independent party can:

1. Determine that the payment is in accordance with the pooled investment vehicle standards; and

2. Present to the qualified custodian approval for payment of the invoice with a copy provided to the adviser. [~~An adviser who has custody by any arrangement, including a general power of attorney, under which the adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian shall comply with all of the requirements established in subsection (3)(a)2 of this section.~~

~~(6) An adviser who has custody and who does not meet the exception established in Section 5(3) of this administrative regulation shall, in addition to the safeguards established in subsections (1) through (4) of this section, comply with the following:~~

~~(a) Hire an independent party to review all fees, expenses, and capital withdrawals from the pooled accounts; and~~

~~(b) Send all invoices or receipts to the independent third party detailing the amount of the fee, expenses, or capital withdrawal and the method of calculation so that the independent party can:~~

~~1. Determine that the payment is in accordance with the pooled investment vehicle standards; and~~

~~2. Present to the qualified custodian approval for payment of the invoice with a copy provided to the adviser.~~]

Section 5. Exceptions to Custody Requirements. The custody requirements in Section 4 of this administrative regulation shall not apply to the exceptions listed in this section:

(1) Shares of mutual funds. With respect to shares of an open-end company as defined in Section 5(a)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-5(a)(1), the adviser may use the company's transfer agent in lieu of a qualified custodian for purposes of complying with Section 4 of this administrative regulation.

(2) Certain privately offered securities.

(a) An adviser shall not be required to comply with the custody requirements with respect to securities that are:

1. Acquired from the issuer in a transaction or chain of transactions not involving a public offering;

2. Uncertificated, and ownership thereof is recorded on the books of the issuer or its transfer agent in the name of the client; and

3. Transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(b) The exception provided in paragraph (a) of this subsection shall not be available with respect to securities held for the account of a limited partnership, limited liability company, or other pooled investment vehicle, unless the entity is audited on an annual basis. The adviser shall distribute the audited financial statements as required by subsection (3) of this section.

(3) Limited partnerships subject to annual audit. An adviser shall not be required to comply with Section 4(5)[~~(6)~~] of this administrative regulation with respect to the account of a limited partnership, limited liability company, or other type of pooled investment vehicle that is subject to an annual audit and distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners, members, or other beneficial owners, within 120 days of the end of its fiscal year.

(4) Registered investment companies. The adviser shall not be required to comply with Section 4 of this administrative regulation with respect to the account of an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 to 80a-64.

(5) Beneficial trusts. An adviser having custody due entirely to serving as trustee for a trust, the beneficial owner of the trust being a parent, grandparent, spouse, sibling, child, or grandchild of that person, including blood or step relationships in these categories, shall not be deemed as having custody of the trust funds for purposes of being required to comply with the safekeeping requirements of Section 4 of this administrative regulation or the net worth requirements of Section 3(1) of this administrative regulation. This exclusion shall not apply to any other trust not expressly excepted for which this person is serving as trustee. Any trust not expressly exempted and its trustees shall be in compliance with this administrative regulation. This exclusion shall inure to the benefit of the employer of the registered person while an employment relationship exists.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner

APPROVED BY AGENCY: March 14, 2011

FILED WITH LRC: March 15, 2011, at 11 a.m.

CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200,

Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:240. Registration exemptions - sale of business.

RELATES TO: KRS 292.410(1)(q)
STATUTORY AUTHORITY: KRS 292.410(1)(q), 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner[~~executive director~~] to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.410(1)(q) authorizes the commissioner[~~executive director~~] to exempt from KRS 292.330 to 292.390 a transaction for which the commissioner[~~executive director~~] finds that registration is not necessary or appropriate in the public interest or for the protection of an investor. This administrative regulation establishes an exemption for a sale of a business that meets the specified requirements.

Section 1. **Definition. "Legal entity" means a business organization of any type, such as a corporation, a partnership, a limited partnership, an association, or a limited liability company.**

Section 2. Pursuant to KRS 292.410(1)(q), the offer or sale of 100 percent of the ownership interest in a legal entity[~~corporation~~] shall be exempt from the requirements established in KRS 292.330 to 292.390 if:

(1) 100 percent of the ownership interest in the legal entity[~~stock of the corporation~~] is either offered or sold; and

(2) The ownership interest[~~stock~~] is sold to one (1) individual or preexisting **legal** entity.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011, at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:260. Examination requirement for individuals advising the public on securities, broker-dealers, and agents.

RELATES TO: KRS 292.310, 292.331(3), 292.337,[~~KRS 292.330(5) (13)~~] 292.500(3)
STATUTORY AUTHORITY: KRS 292.331(3), [~~KRS 292.330(5), (13)(b)6~~] 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.331(3) authorizes**[~~,~~]** [~~KRS 292.330(5) and (13)(b)6 authorizes~~] the commissioner[~~executive director~~] to require an examination as evidence of knowledge of the securities business as a condition of registration. This administrative regulation requires an individual who advises the public regarding securities to successfully complete a written examination that demonstrates knowledge of the requirements of the securities laws and exempts certain individuals from the examination requirement.

Section 1. Except as provided in Section 2 of this administrative regulation, an individual, including an investment adviser or an investment adviser representative, who advises the public regarding the value of a security or the advisability of investing in, purchasing, or selling a security shall demonstrate competence in the law of securities by providing the commissioner[~~executive director~~] with proof of obtaining a passing score, as determined by the Financial Industry Regulatory Authority (FINRA)[~~National Association of Securities Dealers~~], on one (1) of the following examinations:

(1) The Uniform Investment Advisor Law Examination (Series 65 examination); or

(2)(a) The General Securities Representative Examination (Series 7 examination); and

(b) The Uniform Combined State Law Examination (Series 66 examination).

Section 2. The following individuals shall not be required to take and pass the examination:

(1) An individual who registered as an investment adviser or investment adviser representative in a state on or before January 1, 2000 and has been continuously registered since that date, except that the commissioner may[~~executive director shall~~] require the examinations identified in Section 1 of this administrative regulation for an individual found to have violated a state or federal securities law as a condition of continued registration;

(2)[~~An individual (including an officer, partner, director, or clerical staff) employed by a registered investment adviser if the individual does not advise the public regarding the value of a security or the advisability of investing in, purchasing, or selling a security;~~

~~(3)~~] An individual who currently holds one (1) of the following professional designations and is in compliance with all continuing education and other requirements of good standing for the designation:

(a) Certified Financial Planner (CFP) issued by the Certified Financial Planner Board of Standards, Inc.;

(b) Chartered Financial Consultant (ChFC) issued by The American College, Bryn Mawr, Pennsylvania;

(c) Personal Financial Specialist (PFS) granted[~~administered~~] by the American Institute of Certified Public Accountants;

(d) Chartered Financial Analyst (CFA) granted by the Association for Investment Management and Research; or

(e) Chartered Investment Counselor (CIC) granted by the Investment Counsel Association of America; or

(3)[~~(4)~~] An individual who was registered as a broker-dealer agent prior to January 1, 1988, has been continuously registered since that date and has had no reportable disclosures on Form U-4, as incorporated by reference in 808 KAR 10:010. [~~as a of January 1, 2003:~~

~~(a) Had been engaged in the securities business as a licensed agent of a broker-dealer for at least fifteen (15) years; and~~

~~(b) Had no reportable disclosures on that person's Form U-4.~~]

Section 3. An individual not required to take and pass any examination because of holding a designation specified in Section 2(2) **of this administrative regulation** may be required to take **the[~~such~~]** examination if that individual fails to maintain the designation in good standing.

Section 4.[~~3.~~] A registered investment adviser shall not employ an individual as an investment adviser or as one who represents an investment adviser unless that individual has complied with this administrative regulation.

Section 5.[~~4.~~] To register in Kentucky as a broker-dealer or agent, an individual or a principal, if the applicant is an entity[~~a corporation~~], shall:

(1) Pass the appropriate examination, which depending on the proposed business, shall be one (1) of the following FINRA[~~National Association of Securities Dealers ("NASD")~~] examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53,[~~or~~] 62**,** or 79; and

(2) Pass the North American Securities Administrators Association ("NASAA") Series 63 or Series 66 examination.

Section 6. An individual who has been unregistered for a period of time in excess of two (2) years shall be required to take and pass the examinations specified in Sections 1 and 5 of this admin-

istrative regulation unless the commissioner grants a waiver for good cause shown in response to a written request by the investment adviser, broker-dealer or issuer which the individual will represent.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011 at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 11, 2011)

808 KAR 10:280. Qualifications, eligibility, and restrictions on the use of Form U-7, Small Corporate Offering Registration.

RELATES TO: KRS Chapter 292**, 15 U.S.C. 78a**
STATUTORY AUTHORITY: KRS 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: **KRS 292.500(3) authorizes the commissioner of the Department of Financial Institutions to promulgate administrative regulations, forms, and orders as are necessary to carry out the provisions of KRS Chapter 292, including administrative regulations and forms governing registration statements, applications, notice filings, and reports. [**~~The Department~~[~~Office~~] **[**~~of Financial Institutions "Department" has adopted Form U-7, Small Corporate Offering Registration.~~**]** This[~~proposed~~] administrative regulation sets forth the qualifications, eligibility requirements, and restrictions upon legal entities[~~corporations~~] desiring to use Form U-7 to register securities.

Section 1. Qualification for Use of Form. To be eligible to use Form U-7, as incorporated by reference in 808 KAR 10:010, a company **shall[**~~must~~**]** comply with each of the following requirements:

(1) The company **shall[**~~must~~**]** be a legal entity[~~corporation~~] organized under the laws of one of the states or possessions of the United States which engages in or proposes to engage in a business other than petroleum exploration or production or mining or other extractive industries. "Blind pool" offerings and other offerings for which the specific business or properties cannot now be described **shall not be [**~~are not~~**]** eligible to use Form U-7.

(2) The securities may be offered and sold only on behalf of the company, and Form U-7 **shall[**~~may~~**]** not be used by any selling security-holder (including purchase underwriters in a firm commitment underwriting) to register **the[**~~his~~**]** securities for resale.

(3)**(a) The following prices shall be equal to or greater than five (5) dollars:**

1. The offering price for a share or other ownership interest;

2. The exercise price, if the securities are options, warrants, or similar rights; and

3. The conversion price, if the securities are convertible into shares or other ownership interests.

(b) Execution of the application and filing of the form U-7 shall constitute agreement by the company that the company shall not dilute the value below five (5) dollars by any issuance of new shares or other ownership interests for two (2) years after the conclusion of the registration. [~~The offering price for a share or other ownership interest~~][~~common stock~~] **[**~~(and the exercise price, if the securities are options, warrants or rights for, and the conversion price if the securities are convertible into shares or other ownership interests~~][~~, common stock)~~] **[**~~must be equal to or greater than five (5) dollars~~**]** [~~per share~~][~~. By execution of the application and filing of the~~ Form U-7][~~in any state~~][~~, the company thereby agrees not to dilute the value below five (5) dollars by any issuance of new shares or other ownership interests~~][~~with the office that the company will not split its common stock, or declare a stock dividend,~~] **[**~~for two (2) years after the conclusion~~**]**[~~effectiveness of~~] **[**~~the registration~~**]**[~~; provided, however, that in connection with a subsequent registered public offering, the company may upon application and consent of the office take such action~~].

(4) The company may engage selling agents to sell the securities. Commissions, fees, or other remuneration for soliciting any prospective purchaser in this state in connection with this offering **shall[**~~may~~**]** only be paid to persons who, if required to be registered, the company believes, and has reason to believe, are appropriately registered in this state.

(5) This form shall not be available for the securities of any company if the company or any of its officers, directors, persons with a ten (10) percent ownership interest (or persons occupying similar status or performing similar functions), [~~stockholders,~~] promoters or any selling agents of the securities to be offered, or any officer, director**,** or partner (or person occupying similar status or performing similar functions) of **the [**~~such~~**]** selling agent:

(a) Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to any state's securities law within (5) years prior to the filing of the application for registration **[**~~hereunder~~**]**;

(b) Has been convicted within ten(10)[~~five (5)~~] years prior to the filing of the application for registration **[**~~hereunder~~**]** of any felony or misdemeanor in connection with the offer, purchase**,** or sale of any security or any felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, money laundering, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(c) Is currently subject to any state administrative enforcement order or judgment entered by that state's securities department within five (5) years prior to the filing of the application for registration **[**~~hereunder~~**]** or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within five (5) years prior to the filing of the application for registration **[**~~hereunder~~**]**;

(d) Is subject to any state's administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with this offer, purchase, or sale of securities;

(e) Is currently subject to any order, judgment**,** or decree of any court of competent jurisdiction temporarily or preliminarily restricting or enjoining, or is subject to any order, judgment or decree from any court of competent jurisdiction, permanently restraining or enjoining, **the[**~~such~~**]** party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the state entered within five (5) years prior to the filing of the application for registration**[**~~hereunder~~**]**;

(f) The prohibitions of paragraphs (a) through (c) and (e) of this subsection shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against **the[**~~such~~**]** person or if the broker-dealer employing **the[**~~such~~**]** party is licensed or registered in this state and the Form B-D, as incorporated by reference in 808 KAR 10:010, filed with this state discloses the order, conviction, judgment, or decree relating to **the[**~~such~~**]** person. **A person qualified under this subsection shall not [**~~No person qualified under this subsection may~~**]** act in a capacity other than that for which the person is licensed or registered; and

(g) Any disqualification caused by this section **shall be[**~~is~~**]** automatically waived if the state securities department or agency of the state which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that registration be denied. If any of the circumstances in paragraph[~~paragraphs(b),~~] (c) or (e) of this subsection has occurred more than five (5) years from the date of the application for registration **[**~~hereunder~~**]**, these circumstances **shall[**~~should~~**]** be described in response to Question 45 of Form U-7 as a Miscellaneous Factor.

(6) Use of the Form U-7[~~form~~] is available to any offering of

securities by a company, the aggregate offering price of which within or outside this state shall not exceed $1,000,000, less the aggregate offering price for all other securities sold within the twelve (12) months before the start of, and during the offering of, these[~~the~~] securities[~~under SEC Rule 504 in reliance on any exemption under section 3(b) of the Securities Act of 1933 or in violation of section 5(a) of that Act~~]. The Form U-7 **shall not be** [~~form~~] **[~~is not~~]** available to a company that is an investment company (including mutual funds) or other pooled investment vehicle, or is subject to the reporting requirements of section 13 or section 15(d) of the Securities Exchange Act of 1934. [~~(7) The company shall file with the SEC a Form D of Regulation D under the Securities Act of 1933 claiming exemption of the offering from registration under such act pursuant to Rule 504. A copy of the Form D with appropriate state signature pages shall be filed with the office at the same time as filed with the SEC.~~]

Section 2. General Requirements for Use of Form. (1) The fully completed Form U-7 shall be accompanied by:

(a) A letter stating**:**

1. That registration is sought under 808 KAR 10:280;

2. That the applicant meets the qualifications specified in Section 1;

3.The total dollar amount of the securities to be sold anywhere in connection with this offering; and

4. The total dollar amount of the securities to be sold in this state;

(b) A consent to service of process, Form U-2 as incorporated by reference in 808 KAR 10:010;

(c) An opinion by an attorney licensed to practice in a state or territory of the United States that the securities to be sold in the offering have been duly authorized and when issued, upon payment of the offering price, will be legally and validly issued, fully paid, and nonassessable and binding on the company in accordance with their terms; and

(d) A check payable to the Kentucky State Treasurer for the amount specified as the filing fee in KRS 292.380(5) which consists of a registration fee and an examination fee.

(2) The Form U-7 constitutes the offering circular or prospectus. The Form U-7 **shall[**~~must~~**]** be delivered to each investor before a sale is made.

(3) The registration, once declared effective in this state, **shall be [**~~is~~**]** effective for either the period specified in the Form U-7 or one (1) year, whichever is shorter. If the offering is not yet concluded after the initial one (1) year period, the registration may be renewed by payment of a new registration fee and filing of an updated Form U-7.[~~when properly filled in, signed and submitted, together with the exhibits scheduled below and a Form U-1, Uniform Application to Register Securities, constitutes an application for registration for the states listed at the bottom of the cover page of the form. There should be filed with each state there listed a signed original of the form, together with an executed Form U-1 and a signed original of the consent to service of process constituting Exhibit 7. Any references in the Form U-1 to SEC registration and effectiveness should be disregarded and Questions 6 and 8(a) of the Form U-1 are inapplicable. The Form U-1 should set forth the amount of securities being registered in that state and the method of calculating the filing fee, and there should be enclosed a check for the amount of the filing fee. Each state must separately declare the registration effective by an order to that effect unless the state has some other procedure applicable to registration on Form U-7. Once registration is effective as to a given state, the effective date should be noted at the bottom of the cover page of the form. Any changed or revised disclosure document must also be signed. Each question in each paragraph of the form should be responded to. If the question or series of questions is inapplicable, so indicate. Each answer should be clearly and concisely stated and in the space provided, however, notwithstanding the specificity of the questions, responses should not involve nominal, immaterial or insignificant information.~~

~~(3) If the provided space is insufficient, additional space should be created by cutting and pasteing the form to add more lines or by putting the form on a word processor and adding more lines in this or a similar manner. Irrespective of which method is used, care should be taken to assure that the form is accurately and completely reproduced, smaller type size should not be used, and script or italic type styles should be avoided.~~

~~(4) There must be submitted to the office an opinion of an attorney licensed to practice in a state or territory of the United States that the securities to be sold in the offering have been duly authorized and when issued upon payment of the offering price will be legally and validly issued, fully paid and nonassessable and binding on the company in accordance with their terms.~~

~~(5) The disclosure document on Form U-7 constitutes the offering circular or prospectus and the form once filled out, filed and declared effective may be reproduced by the company by copy machine or otherwise for dissemination to potential investors. (The company is cautioned to control the copying and distribution to preclude inaccurate or unreadable copies from being used and to prevent other unauthorized uses for which the company may nevertheless be deemed responsible.) These instructions are not part of the disclosure document and should not be included. Reproduced copies should be on white paper and should be stapled or secured in the left margin without a cover of any type.~~

~~The company should expect that the office may have comments and questions concerning the answers set forth on the form and that changes may be required to be made to the answers before the registration is declared effective.~~

~~(7) No offers or sales may be made in this state until the registration has been declared effective by the office. To make offers or sales before the registration is effective could lead to a stop order or other proceeding which would preclude use of the form in this or any other state and could give rise to a right of recision by investors enforceable against management, principal stockholders and the selling agents as well as the company. When the registration has been declared effective in this state, offers and sales may be made in this state even though registration in other states has not been declared effective. This disclosure document must be delivered to each investor before the sale is made, e.g.:~~

~~(a) Before any order is entered;~~

~~(b) Any subscription agreement is signed; or~~

~~(c) Any part of the purchase price is received. The registration statement will be effective only for the same time period specified in the order of the office, which may be different for different states; however, no registration statement shall remain effective in a particular state for a period greater than one (1) year.~~]

(4)[~~(8)~~] After the registration has been declared effective, and while the offering is still in progress, if any portion of the Form U-7 needs[~~for~~m s~~hould need~~] to be changed or revised because of an[~~a material~~] event concerning the company or the offering to make the Form U-7 [~~it~~] accurate and complete, it shall be **[~~so~~]** changed, revised, or supplemented. An updated Form U-7[~~If changed, revised or supplemented (including an addition on the cover page of another state in which the offering has been registered) the form as so changed, revised, or supplemented,~~], clearly marked to show the changes from the previously filed version, shall[~~should~~] be filed and cleared with the office of this state before use. If any of the changes or revisions are of such significance that they are material to the making of an investment decision [~~by an investor~~], and if the minimum proceeds have not been raised, [~~after filing with a clearance by the office,~~] the updated Form U-7 shall [~~disclosure document on this form as so changed, revised, or supplemented should~~] be recirculated to persons in this state that have previously subscribed, and they shall[~~should~~] be given the opportunity to either rescind or reconfirm their investment.

(5)[~~(9)~~] Options, warrants**,** and similar rights to purchase securities **shall** constitute a continuous offering of the underlying securities during the exercise period and **shall** require [~~required~~] the securities to be registered and the Form U-7 [~~disclosure document~~] to be kept continuously current throughout the exercise period through the use of the [~~above amendment~~] procedure set forth in subsection (4) of this section or by means of a supplement, as appropriate. Upon any change, revision, or supplement to the Form U-7 [~~disclosure document~~], a copy shall[~~must~~] be promptly furnished to the holders of options, warrants**,** and similar rights.

(6) Any supplemental literature or advertisements announcing the offering shall be cleared by the department prior to use. Advertisements and announcements mentioning the offering **shall**

be[~~are~~**]** governed by the guidelines for "tombstone" style statements generally used in registered offerings and shall contain a statement to the effect that "this announcement does not constitute an offer to sell or the solicitation of an offer to buy" the securities and that **the[**~~such an~~**]** offer shall be made only by an official disclosure document. Any **[**~~such~~**]** materials meeting the requirements of 808 KAR 10:380, Section 1(d), **shall [**~~will~~**]** be acceptable.[~~(10) Any and all supplemental literature or advertisements announcing the offering should be filed by the company and cleared with the securities department of each state prior to publication or circulation within that state. An announcement should not be a sales motivation device and should normally contain no more than the following:~~

~~(a) The name of the company;~~

~~(b) Characterization of the company as indicated on the cover page of the disclosure document;~~

~~(c) Address and telephone number of the company;~~

~~(d) A brief indication in ten (10) words or less of the company's business or proposed business;~~

~~(e) The number and type of securities offered and the offering price per security;~~

~~(f) The name, address, and telephone number of any selling agent authorized to sell the securities;~~

~~(g) A statement that the announcement does not constitute an offer to sell or solicitation of an offer to purchase and that any such offer must be made by official disclosure document;~~

~~(h) How a copy of the disclosure document may be obtained; and~~

~~(i) The company's corporate logo. Clip and return coupons requesting a copy of the disclosure document are permitted in printed announcements. (For example, an announcement in "tombstone" format with a black-lined border and using the following language would ordinarily be acceptable: "50,000 shares, common stock; $5 per share; (logo) XYZ Corporation, a development stage database computer software company now conducting operations; Midtown, Ohio; selling agent: ABC Securities, 1234 Main Street, Midtown, Ohio (312) 123-4567. This announcement does not constitute an offer to sell or the solicitation of an offer to buy the securities, which offer may be made only by means of an official disclosure document; a copy of the disclosure document may be obtained by contacting the selling agent at the above address and telephone number." Similarly, a classified advertisement using the following language would ordinarily be acceptable: "Common stock of XYZ Corporation, a development stage database computer software company now conducting operations, Midtown, Ohio. Price $5 per share. Total offering 50,000 shares. This announcement does not constitute an offer to sell or the solicitation of an offer to buy the securities, which offer may be made only by means of an official disclosure document. A copy of the disclosure document may be obtained by contacting the company, Industrial Park, Suite 12B, 456 Mill Road, Midtown, Ohio (321) 321-4321.")~~

~~The issuance of any but routine press releases or the granting of interviews to news media during, or at about the same time of, an offering could constitute indirect advertising, which if not precleared with the securities department would be prohibited. Any unusual news article or news program featuring the company during the period, particularly if present or future earnings, or the pending offering, are mentioned, could delay or cause suspension of the effectiveness of the registration and disrupt the offering. Consequently any such news article or news program, no matter by whom it may be initiated, should generally be discouraged during this period.~~]

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011 at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:410. Life[~~Viatical~~] settlement investments [~~interests~~].

RELATES TO: KRS **292.331,** 292.340, 292.370, **292.380, 292.390,** 292.410(1)(i)**, 292.430**
STATUTORY AUTHORITY: KRS **[**~~292.330, 292.340,~~**]** 292.370**(2)(r)**, 292.410(1)(i), 292.500(1), (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner **of the Department of Financial Institutions**[~~executive director~~] to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. **[**~~KRS 292.340 provides that it is unlawful to offer or sell a security unless the security is registered under KRS Chapter 292, or the security or transaction is exempt, or the security is a covered security. This administrative regulation establishes the requirements for the registration of life~~**]**[~~viatical~~] **[**~~settlement investments~~**]**[~~interests~~] **[**~~. KRS 292.330 provides that it is unlawful for an agent to transact~~**]**[~~transaction~~] **[**~~business in Kentucky unless registered under KRS Chapter 292.~~**]** This administrative regulation establishes the requirements for registration of life[~~viatical~~] settlement investments[~~interests~~] and for registration of an agent selling life[~~viatical~~] settlement investments[~~interests~~].

Section 1. Definitions. (1) "Life settlement contract" is defined by KRS 304.15-020(17).[~~"Viatical settlement contract" means a:~~

~~(a) Written agreement between a viator or insured and a viatical settlement provider for the sale, assignment, transfer, devise, or bequest to the viatical settlement provider by the viator or insured of all or a portion of the death benefit or ownership of a life insurance policy, for consideration that is less than the expected death benefit of the life insurance policy; or~~

~~(b) A contract for a loan or other financial transaction secured primarily by an individual or group life insurance policy, but does not include a contract for:~~

~~1. A loan by a life insurance company under the terms of a life insurance contract;~~

~~2. A loan secured by the cash value of a policy;~~

~~3. The assignment of a life insurance policy as collateral for a loan to a bank, saving bank, savings and loan association, credit union, or other licensed lending institution;~~

~~4. The exercise by the insured of an accelerated benefits provision under the terms of the life insurance contract; or~~

~~5. The assignment, transfer, sale, devise, or bequest of a life insurance policy, for less than the expected death benefit, by the viator to a natural person if the person does not enter into more than one (1) agreement per calendar year.~~]

(2) "Life[~~viatical~~] settlement investment" is defined by KRS 292.310(22).

(3) "**Life settlement policy" means a life insurance policy that has been acquired by a life settlement provider under a life settlement contract.**

(4) "Life settlement provider" is defined by KRS 304.15-020(18).[~~interests" means the entire interest or a fractional interest in a life insurance policy or in the death benefit under a life insurance policy that is the subject of a viatical settlement contract; but does not include the initial purchase from the viator by a viatical settlement provider.~~

~~(3) "Viatical settlement provider" means a person, other than a viator or insured, that enters into a viatical settlement contract, including a person that:~~

~~(a) Obtains financing for the purchase, acquisition, transfer or other assignment of a viatical settlement contract, viaticated policy, or viatical settlement interest; or~~

~~(b) Sells, assigns, transfers, pledges, hypothecates, or disposes of a viatical settlement contract, viaticated policy, or viatical settlement interest.~~]

(5)[~~(4)~~**]** "Life[~~Viatical~~] settlement purchase agreement" means a contract or agreement entered into by an investor to purchase a life[~~viatical~~] settlement investment[~~interests~~] for the purpose of

deriving an economic benefit. **[**~~(5) "Life settlement policy"~~**]**[~~"Viaticated policy"~~] **[**~~means a life insurance policy that has been acquired by a life~~**]**[~~viatical~~] **[**~~settlement provider under a life~~**]**[~~viatical~~] **[**~~settlement contract.~~**]**

(6) "Owner" is defined by KRS 304.15-020(19).[~~"Viator" means the owner of a life insurance policy insuring the life of an individual who enters or who seeks to enter a viatical settlement contract, but does not include:~~

~~(a) A viatical settlement provider; or~~

~~(b) A person that acquires a viaticated policy or a fractional interest in a viaticated policy from a viatical settlement provider or a subsequent investor.~~]

Section 2. Registration of Life[~~Viatical~~] Settlement Investments[~~interests~~]. (1) In order to register [~~an investment contract known as~~] a life[~~viatical~~] settlement investment[~~interest~~] pursuant to KRS 292.370, the following activities shall be performed:

(a) A registration statement containing the information established in Section 3 of this administrative regulation is filed with and approved by the commissioner[~~executive director~~];

(b) The filing fee of $500 is submitted to the commissioner;

(c) Each investor is provided with the documents established in Section 4 of this administrative regulation; and

(d) A consent to service of process, if required under KRS 292.430, is filed with the commissioner[~~executive director~~].

(2) Registration under this administrative regulation shall not be available to an issuer if the issuer; a predecessor or affiliate of the issuer; a director, officer, or general partner of the issuer; a beneficial owner of ten (10) percent or more of a class of the issuer's equity securities; a promoter of the issuer presently connected with the issuer in any capacity; an underwriter of the securities to be offered; or a partner, director, or officer of an underwriter of the securities to be offered:

(a) Has filed within the last five (5) years a registration statement that is the subject of a currently effective registration stop order entered by a state securities administrator or the Securities and Exchange Commission;

(b) Has been convicted within the last ten (10)[~~five (5)~~] years of a:

1. Felony;

2. Criminal offense involving fraud or deceit; or

3. Criminal offense in connection with the offer, purchase**,** or sale of a security;

(c) Is currently subject to a state or federal administrative enforcement order entered within the last five (5) years finding fraud or deceit in connection with the purchase or sale of a security; or

(d) Is currently subject to an order, judgment**,** or decree of a court of competent jurisdiction entered within the last five (5) years, temporarily, preliminarily, or permanently restricting or enjoining the subject of the order from engaging in or continuing to engage in a conduct or practice involving fraud or deceit in connection with the purchase or sale of a security.

(3) Upon termination of the effective period of a registration statement filed under subsection (1) of this section, or prior to renewal of a registration statement, the issuer shall file a sales report indicating the aggregate sales price of securities sold in Kentucky during the effective period of the registration statement.

Section 3. Filing Requirements - Registration Statement. (1) The registration statement required under Section 2(1)(a) of this administrative regulation shall contain the following information:

(a) The name, address, and telephone number of the issuer, and the name of the contact person of the issuer;

(b) The articles of incorporation of the issuer, if a corporation or similar organizational documents for other business organizations;

(c) The name and address of each director and officer of the issuer along with the person's principal occupation for the past five (5) years;

(d) A general description of the program and securities offered by the issuer, **excluding[**~~but not including~~**]** details of specific life settlement[~~viaticated~~] policies or life[~~viatical~~] settlement contracts;

(e) A description of the nature and amount of commissions, finders' fees, or other remuneration paid directly or indirectly for soliciting a sale of a life[~~viatical~~] settlement investment [~~interest~~] in Kentucky;

(f) The issuer's most recent audited income and expense statement and balance sheet;

(g) A blank copy of the Life Settlement[~~Viatical~~] Disclosure Document Parts A and B to be furnished under Section 4 of this administrative regulation to an investor;

(h) A copy of all offering materials including any prospectus, pamphlet, form letter, advertisement, or other sales literature used or intended to be used in connection with the offer or sale of a life[~~viatical~~] settlement investment[~~interest~~]; and

(i) A statement indicating the procedures that the agents of the issuer will use to determine the suitability of the investment for an investor and a copy of any documents used to determine suitability.

(2) The issuer shall promptly amend its registration statement if any of the information becomes inaccurate or incomplete in any material respect.

(3) The effective period of a registration statement filed under this administrative regulation shall be established pursuant to KRS 292.380(6).

(4) The information and documents required under KRS 292.370(2)(a) through (q) shall be omitted from a registration statement filed pursuant to this administrative regulation unless otherwise required in this administrative regulation.

(5) The commissioner[~~executive director~~] may deny, suspend, or revoke a registration pursuant to KRS 292.390.

Section 4. Disclosure Requirements for Sale of Life[~~viatical~~] Settlement Investments[~~interests~~]. (1) The following documents shall be provided to an investor in connection with the sale of [~~an investment contract known as~~] a life[~~viatical~~] settlement investment[~~interests~~]:

(a) At least forty-eight (48) hours prior to the time a prospective investor executes a life[~~viatical~~] settlement purchase agreement, the prospective investor shall receive a completed Life Settlement[~~Viatical~~] Disclosure Document Part A equivalent to Kentucky Form 10:410A.

(b) On or before the date when the investor is presented with a specific life[~~viatical~~] settlement investment[~~interest~~] under an executed life[~~viatical~~] settlement purchase agreement, the investor shall receive a completed Life Settlement[~~Viatical~~] Disclosure Document Part B equivalent to Kentucky Form 10:410B.

(2) The completed Life Settlement[~~Viatical~~] Disclosure Document Part A and B given to an investor shall reasonably conform to the formatting of Kentucky Forms 10:410A and 10:410B with respect to font size, boldface type, and line spacing.

Section 5. Rescission. (1) Investor's right of rescission.

(a) An investor shall have the right to rescind a life[~~viatical~~] settlement purchase agreement at any time until ten (10) days after the investor executes a life[~~viatical~~] settlement purchase agreement.

(b) A rescission by an investor under paragraph (a) of this subsection shall be sufficient if addressed to the entity designated in the Life Settlement[~~Viatical~~] Disclosure Document Part B to receive the notice and the notice is either postmarked or received by the entity within ten (10) days after the investor executes a life[~~viatical~~] settlement purchase agreement.

(2) Required offer of rescission.

(a) Within ninety (90) days after the execution of a life[~~viatical~~] settlement purchase agreement by an investor, the issuer shall make an offer of rescission to the investor if, during that period, the issuer has not identified a specific life[~~viatical~~] settlement contract that is suitable for the investor and has not delivered a completed Life Settlement[~~Viatical~~] Disclosure Document Part B to the investor.

(b) The issuer shall notify the investor of the offer of rescission on Kentucky Form 10:410 or its equivalent. The notice of the offer of rescission shall reasonably conform to the formatting of Kentucky Forms 10:410 with respect to font size, boldface type, and line spacing.

(c) An acceptance by an investor of an offer of rescission shall be valid if the acceptance is either postmarked or received by the entity designated in the offer within ten (10) days after the investor

receives the offer.

Section 6. Agent Registration. An agent of an issuer of[~~an investment contract known as~~] a life[~~viatical~~] settlement investment[~~interest~~] shall be registered pursuant to KRS 292.331[~~292.330~~] as an agent of the issuer and shall submit a completed Form U-4 as incorporated by reference in 808 KAR 10:010 to the commissioner.[~~executive director~~] The agent shall also:

(1) Pass the appropriate examination, which shall be one (1) of the following Financial Industry Regulatory Authority ("FINRA") examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53, 62, or 79; and

(2) Pass the North American Securities Administrators Association ("NASAA") Series 63 or Series 66 examination.[~~along with proof of passing one (1) of the following examinations administered by the National Association of Securities Dealers:~~

~~(1) The Series 63 Uniform Securities Law Examination; or~~

~~(2) The Series 66 Uniform Combined State Law Examination.~~]

Section 7. Waiver of Life[~~Viatical~~] Settlement Investment[~~Interest~~] Requirements. Upon the request of an issuer, the commissioner[~~executive director~~] may by order waive a requirement of this administrative regulation if the commissioner[~~executive director~~] determines the waiver to be in the public interest and that the requirement to be waived is not necessary for protection of investors. The issuer bears the burden of proof to satisfy the commissioner[~~executive director~~] that the waiver is in the public interest and that the requirement to be waived is not necessary for protection of investors.

Section 8. Availability of KRS 292.410(1)(i) for Life[~~Viatical~~] Settlement Investments[~~Interest~~]. An issuer may rely on the exemption provided in KRS 292.410(1)(i) for the offer or sale of a life[~~viatical~~] settlement investment[~~interest~~] if the issuer:

(1) Otherwise meets the conditions and requirements of KRS 292.410(1)(i); and

(2) Prior to any sale in Kentucky, in reliance on this exemption, the issuer files with the commissioner[~~executive director~~] a claim of exemption containing the information established in Section 3(1) of this administrative regulation.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 10:410A (November 2010[~~February 2001~~] edition), "Life Settlement[~~Viatical~~] Disclosure Document Part A";

(b) Form 10:410B (November 2010[~~February 2001~~]), "Life Settlement[~~Viatical~~] Disclosure Document Part B"; and

(c) Form 10:410 (November 2010[~~December 2000~~] edition), "Offer of Rescission - Life[~~Viatical~~] Settlement Investment" [~~Interest~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[~~Office~~] of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner

APPROVED BY AGENCY: March 14, 2011

FILED WITH LRC: March 15, 2011 at 11 a.m.

CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:440. Examples of dishonest or unethical practice for broker-dealers and agents.

RELATES TO: KRS 292.337**, 292.480[**~~(2)(h)~~**]**[~~292.330(13)(a)7~~]

STATUTORY AUTHORITY: KRS 292.336(5), (6) [~~292.330(12)(e)~~], 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner of the Department of Financial Institutions to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.336(5) and (6)[~~292.330(12)(e) and (f)~~] authorize the commissioner to promulgate administrative regulations prohibiting unreasonable charges, profits, commissions, or other compensation for broker-dealers and agents and prescribing standards for the conduct of business by broker-dealers and agents which the commissioner finds appropriate in the public interest and for the protection of investors. This administrative regulation provides examples of dishonest and unethical practices by broker-dealers and agents and states the consequences of engaging in unacceptable conduct or practices.

Section 1. Broker-dealers shall observe high standards of commercial honor and just and equitable principles of trade in their dealings with customers and the conduct of their business. Acts and practices such as the following shall be considered contrary to these standards. Violations may result in a fine, suspension, or revocation in proportion to the seriousness of the offense, pursuant to KRS 292.337(1) [~~292.330(13)(a):~~]

(1) Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers or in the payment of free credit balances reflecting completed transactions of any of its customers;

(2) Failing or refusing to furnish a customer, upon reasonable request, information to which the customer is entitled, or to timely respond to a formal written demand or complaint by a customer;

(3) Attempting to enforce a condition, stipulation, or provision against a customer in Kentucky if the result would:

(a) Leave the customer without the choice of a forum for dispute resolution in the state of Kentucky; or

(b) Limit the timeliness of an action to a period less than that established in KRS 292.480;

(4) Failing to segregate a customer's securities held in safekeeping;

(5) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by rules of the Securities and Exchange Commission;

(6) Charging unreasonable and inequitable fees for services performed, such as:

(a) Collection of monies due for principal;

(b) Dividends or transfer of securities;

(c) Appraisals;

(d) Safekeeping; or

(e) Custody of securities and other services related to its securities business;

(7) Offering to buy from or sell to any person any security at a stated price unless the broker-dealer is prepared to purchase or sell, as the case may be, at the price and under the conditions as are stated when the offer is made;

(8) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless the broker-dealer knows or has reasonable grounds to believe that a market for the a security exists other than that made, created**,** or controlled by the broker-dealer, or by any **[**~~the~~**]** person for whom the broker-dealer is acting or with whom the broker-dealer is associated in the distribution, or any person controlled by, controlling, or under common control with the broker-dealer;

(9) Failing to disclose in writing that the broker-dealer is controlled by, controls, is affiliated with, or is under common control with the issuer of any security, the existence of this control before entering into any binding contract with or for a customer for the purchase or sale of the security;

(10) Failing to make a bona fide public offering of all the securities allotted to the broker-dealer for distribution, whether acquired directly as an underwriter or a selling group member or indirectly from an entity participating in the distribution as an underwriter or selling group member;

(11) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(12) Switching, churning, overtrading, or reloading of a security in a customer's account for the purpose of accumulating or increasing a commission;

(13) Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon a reasonable [~~reasonably~~] inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

(14) Failing to furnish to a customer purchasing securities in an offering, no later than the due date of confirmation of the transaction, either a formal prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus;

(15) Participating in the solicitation or offer for sale of a security without the use of an offering document [~~documents~~] or prospectus, if required, or making a statement contrary to or inconsistent with disclosure contained in the offering document or prospectus;

(16) Making a false, misleading, deceptive, or exaggerated representation or prediction in the solicitation or sale of a security, including:

(a) That the security will be resold or repurchased;

(b) That the security will be listed or traded on an exchange or established market;

(c) That the security will result in an assured, immediate, or material increase in value, future market price, or return on an investment;

(d) That there is a guarantee against risk of loss; or

(e) Any statement with respect to an issuer's financial condition, anticipated earnings, potential growth, or success not supportable by information in the offering document or prospectus;

(17) Engaging or aiding in boiler room operations such as use of high pressure tactics to promote a speculative offering or promotion of a security in an intensive campaign in which the prospective purchaser is encouraged to make a hasty decision to buy a security irrespective of the purchaser's investment needs, objectives, or understanding of the security being offered;

(18) Executing a transaction on behalf of a customer without authorization to do so;

(19) Exercising any discretionary power effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the executing of orders;

(20) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement;

(21) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(22) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design or contrivance, which may include any of the following:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any [~~the~~] security, that has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; except, this subsection shall not prohibit a broker-dealer from entering bona fide agency cross transactions for its customers; or

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in the security or raising or depressing the price of the security, for the purpose of inducing the purchase or sale of the security by others;

(23) Guaranteeing a customer against loss in any securities account of the customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer;

(24) Publishing or circulating, or causing the publication or circulation of, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless the broker-dealer reasonably believes that the transaction was a bona fide purchase or sale of the security; or which purports to quote the bid price or asked price for any security, unless the broker-dealer reasonably believes that the quotation represents a bona fide bid or offer;

(25) Using any advertising or conducting any sales practice in a deceptive or misleading manner;

(26) Entering into an agreement for a concession, discount, commission, or allowance as consideration for a service in connection with the distribution or sale of a security in Kentucky with a broker-dealer, agent, investment adviser, or investment adviser representative who is not either:

(a) Registered in Kentucky; or

(b) Exempted from the registration requirements for conducting a securities business in Kentucky;

(27) Lying to or otherwise misleading representatives of the Department of Financial Institutions conducting an authorized examination or investigation;

(28) Failing to make requested records available to or otherwise impeding a representative of the Department of Financial Institutions conducting an authorized examination or investigation;

(29) Failing to respond within the specified time period to a written request from an authorized representative of the Department of Financial Institutions for [~~information~~]:

(a) Information

(b) An explanation of practices or procedures;

(c)[~~(b)~~] A response to a complaint filed with the Department of Financial Institutions; or

(d)[~~(c)~~] A response to a written statement of findings from an examination; and

(30) Committing any act involving a customer, a customer's account, or any business records which would constitute a criminal offense.

Section 2. Broker-dealer agents shall observe high standards of commercial honor and just and equitable principles of trade in their dealings with customers. The following acts and practices are considered contrary to these standards. Violations may result in a fine, suspension, or revocation in proportion to the seriousness of the offense, pursuant to KRS 292.337(1) [~~292.330(13)(a)~~]:

(1) Sharing directly or indirectly in profits or losses in the account of a customer without the written authorization of the customer and the broker-dealer which the agent represents;

(2) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(3) Effecting securities transactions not recorded on the regular books and records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(4) Engaging in the practice of lending to or borrowing from a customer either money or securities;

(5) Acting as custodian of a customer's money, securities, or an executed stock power; and

(6) Engaging in conduct specified in Section 1(11) through [~~to~~] (30) of this administrative regulation.

Section 3. Issuer agents shall observe high standards of commercial honor and just and equitable principles of trade in their dealings with customers. The following acts and practices are considered contrary to these standards. Violations may result in a fine, suspension, or revocation in proportion to the seriousness of the offense, pursuant to KRS 292.337(1) [~~292.330(13)(a)~~]:

(1) Engaging in conduct specified in Section 1(2), (13), (15) through [~~to~~] (18), or (25) through [~~to~~] (30) of this administrative regulation; or[~~.~~]

(2) Engaging in conduct specified in Section2(3) or (4).

Section 4. The commissioner may determine that an activity not included in the examples identified in Sections 1 through 3 of

this administrative regulation constitutes a dishonest or unethical practice if the activity is similar to an enumerated activity.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011, at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:450. Examples of Dishonest or unethical practice for investment advisers and investment adviser representatives.

RELATES TO: KRS **Chapter 292, 17 C.F.R. 275.206(4), 15 U.S.C. 78, 80b** [~~292.337(2)h, 292.336(5), (6)~~**]** [~~292.330(13)(a)7~~]
STATUTORY AUTHORITY: KRS 292.336(5), (6) [~~292.330(12)(e)~~], 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner of the Department of Financial Institutions to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.336(5) and (6) [~~292.330(12)(e) and (f)~~] authorize the commissioner to promulgate administrative regulations prohibiting unreasonable charges or other compensation of investment advisers and prescribing standards for the conduct of business by investment advisers and investment adviser representatives which the commissioner finds appropriate in the public interest and for the protection of investors. This administrative regulation provides examples of dishonest and unethical practices by investment advisers and investment adviser representatives and clarifies the consequences of engaging in unacceptable conduct or practices.

Section 1. Definitions. (1) "Advertisement" means any notice, circular, letter, or other written communication addressed to more than one person, or any notice or other announcement in any electronic or paper publication, by radio or television, or by any other medium, that offers any one of the following:

(a) Any analysis, report, or publication concerning securities;

(b) Any analysis, report, or publication that is to be used in making any determination as to when to buy or sell any security or which security to buy or sell;

(c) Any graph, chart, formula, or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or

(d) Any other advisory service with regard to securities.

(2) "Investment adviser solicitor" means a person or entity that, directly or indirectly, solicits a prospective client for, or refers a prospective client to, an[~~and~~] investment adviser.

Section 2. A person who is an investment adviser or an investment adviser representative shall be a fiduciary and shall have a duty to act primarily for the benefit of its clients. An investment adviser or investment adviser representative shall not engage, either directly or indirectly, in unethical or dishonest practices. The following acts and practices shall be considered either a breach of fiduciary duty or a dishonest and unethical practice. Violations may result in a fine, suspension, or revocation in proportion to the seriousness of the offense:

(1) Recommending to a client to whom investment advisory, management, or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser;

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten (10) business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both;

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account in light of the fact that an investment adviser or investment adviser representative in these situations can directly benefit from the number of securities transactions effected in a client's account;

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so;

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party trading authorization from the client;

(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds;

(7) Loaning money or securities to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser;

(8)(a) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser or any employee of the investment adviser;

(b) Misrepresenting the nature of the advisory services being offered or fees to be charged for the service; or

(c) Omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they were made, not misleading;

(9) Providing a report or recommendation to any advisory client prepared by someone other than the adviser without disclosing that fact;

(10) Charging a client an unreasonable advisory fee in light of the fee charged by other investment advisers providing similar services;

(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser, or any of its employees including:

(a) Compensation arrangements connected with advisory services to clients which are in addition to compensation from **these [**~~such~~**]** clients for **advisory [**~~such~~**]** services; and

(b) The amount of any commissions to be received for executing transactions pursuant to advice given;

(12) Failing to disclose to clients in writing all potentially conflicting divisions of loyalty in connection with a transaction and obtaining the written consent of the client to proceed with the transaction**:[**~~.~~**]**

(a) Any transaction in which a person acts as an investment adviser for one (1) party to that transaction and in which the person (or any person controlling, controlled by, or under common control with the adviser) acts as a broker-dealer for both the advisory client and another person on the other side of the transaction is subject to this disclosure and consent requirement**,** and the client shall be provided a written confirmation for each such transaction which contains the following:

1. A statement of the nature of the transaction;

2. The date of the transaction**;[**~~.~~**]**

3. An offer to furnish, upon written request, the time of the transaction; and

4. The source and amount of any other remuneration the adviser received or will receive in connection with the transaction. If the investment adviser is not participating in a distribution when the advisory client is purchasing the security or a tender offer when the advisory client is selling the security, the confirmation may state that the investment adviser has been or will be receiving other remuneration and that the source and the amount of **this[**~~such~~**]** remuneration will be furnished upon the client's written request**;[**~~.~~**]**

(b) The disclosure and consent requirements of **subsection (12)(a) of this section [**~~paragraph (a) of this subsection~~**]** apply to each **[**~~such~~**]** contemplated transaction and shall be complied with

every time **the [**~~such a~~**]** transaction occurs unless the adviser complies with the provisions of subsection (12)(c) **of this section;[**~~.~~**]**

(c) If the disclosure and consent requirements of **subsection (12)(a) of this section [**~~paragraph (a) of this subsection~~**]** prospectively cover more than one transaction, the adviser is responsible for ensuring that the client receives at least annually, with or as part of a written statement or summary of the client's account, written disclosure of the following:

1. The total number of **these [**~~such~~**]** transactions since the date of the last statement or summary;

2. The total amount of all commissions or other remuneration the adviser received or will receive in connection with the transactions; and

3. A conspicuous statement that the client may revoke the written consent previously given by providing written notice of **the [**~~such~~**]** revocation to the adviser**; and[**~~.~~**]**

(d) Any transaction in which the same adviser recommended the transaction to both a seller and a purchaser of a security **shall be [**~~is~~**]** a dishonest or unethical practice regardless of any disclosure and consent**;[**~~.~~**]**

(13) Failing to disclose to clients in writing before any advice is rendered any material fact with respect to the financial and disciplinary information required to be disclosed by 17 C.F.R. 275.206(4)-4 (SEC Rule 206(4)4);

(14)[~~(13)~~] Guaranteeing a client that a specific result will be achieved with advice which will be rendered;

(15)[~~(14)~~] Using any advertisement that does any of the following:

(a) Refers to any testimonial of any kind concerning any advice, analysis, report, or other service rendered by the adviser or representative;

(b) Refers to past specific recommendations of the adviser or representative that were or would have been profitable, except that an adviser or representative may furnish or offer to furnish a list of all recommendations made by the adviser or representative within the immediately preceding period of not less than one year if the list also includes the following:

1. The name of each security recommended, the date and nature of each recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the most recently available market price of each **[**~~such~~**]** security; and

2. A legend on the first page in prominent print or type that states that recommendations made in the future may not be as profitable as the securities on the list;

(c) Represents that any graph, chart, formula, or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making that person's own decisions without prominently disclosing in the advertisement the limitations and the difficulties with respect to its use;

(d) Represents that any report, analysis, or other service will be furnished for free or without charge, unless the report, analysis or other service actually is or will be furnished free and without any direct or indirect condition or obligation;

(e) Represents that the Department of Financial Institutions has approved any advertisement; or

(f) Contains any untrue statement or omission of a material fact, or that is otherwise false or misleading;

(16)[~~(15)~~] Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to in writing by the client;

(17)[~~(16)~~] Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, if the investment adviser has custody or possession of the securities or funds when the adviser's action is subject to and does not comply with the provisions of 808 KAR 10:020 relating to the custody;

(18)[~~(17)~~] Entering into, extending, or renewing an advisory contract unless the contract is in writing and discloses the following:

(a) The nature of the advisory services to be provided;

(b) The time period that the contract remains in effect;

(c) The advisory fee and the formula for computing the fee;

(d) The amount of the prepaid fee to be returned **if there is [**~~in the event of~~**]** contract termination or nonperformance;

(e) Whether the contract grants discretionary power to the adviser and, if so, the terms of the discretionary power;

(f) Whether the contract grants custody of client funds to the adviser and, if so, the terms of the custody; and

(g) That the adviser shall not assign the contract without the prior written consent of the client;

(19)[~~(18)~~] Including in an advisory contract any condition, stipulation, or provision binding any client to waive compliance with any provision of the [~~Kentucky~~] Securities Act of Kentucky, KRS Chapter 292, 808 Chapter 10, or of the Investment Advisors Act of 1940, 15 U.S.C. 80b;

(20)[~~(19)~~] Paying compensation, directly or indirectly, to an investment adviser solicitor unless the investment adviser makes the payment in accordance with the requirements of 17 C.F.R. 275.206(4)-3) (SEC Rule 206(4)-3);

(21)[~~(20)~~] Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative contrary to the provisions of Section 206(4) of the Investment Advisors Act of 1940, whether or not the investment adviser is registered or required to be registered under Section 203 of the Act;

(22)[~~(21)~~] Failing to provide all material information with respect to any dealings with or recommendations to any advisory client in violation of KRS 292.320;

(23)[~~(22)~~] Committing any act involving a client, the client's assets, or any business records which would constitute a criminal offense;

(24)[~~(23)~~] Lying to or otherwise misleading a representative of the Department of Financial Institutions conducting an authorized examination or investigation;

(25)[~~(24)~~] Failing to make requested records available to or otherwise impeding a representative of the Department of Financial Institutions conducting an authorized examination or investigation; and

(26)[~~(25)~~] Failing to respond in a timely manner to a written request from an authorized representative of the Department of Financial Institutions for [~~information~~]:

(a) Information;

(b) An explanation of practices or procedures;

(c)[~~(b)~~] A response to a complaint filed with the department; or

(d)[~~(c)~~] A response to a written statement of findings from an examination.

Section 3. The provisions of this administrative regulation shall apply to federally covered advisers operating in Kentucky to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Market Improvement Act of 1996, 15 U.S.C. 78, and the Investment Advisors Act of 1940, 15 U.S.C. 80b.

Section 4. The commissioner may determine that an activity not included in the examples identified in Section 2 of this administrative regulation constitutes a dishonest or unethical practice if the activity is similar to an enumerated activity.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011, at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:480. Books and records of firms employing issuer agents.

RELATES TO: KRS 292.336(1)(a), (b)

STATUTORY AUTHORITY: KRS 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. **[**~~KRS 292.336(1)(a) requires firms employing issuer agents to make and keep books and records as prescribed by the commissioner. KRS 292.336(1)(b) requires all records to be preserved for three years and to be made available upon request of the commissioner.~~**]** This administrative regulation establishes the books and records a firm employing issuer agents must maintain.

Section 1. Every firm employing issuer agents, who are either registered or required to be registered under the provisions of KRS Chapter 292, to effect transactions in its securities shall make and keep accurate, complete, and current the following books and records relating to these securities transactions:

(1) Records that track all receipts of funds from purchasers of the securities and all disbursements of those funds. The disbursement records shall provide sufficient detail to prepare an actual "Use of Proceeds" tabular display for comparison with the proposed "Use of Proceeds" tabular display required by the Offering Document Guidelines adopted by the department in **April 2009[**~~February 2006~~**]**. Records shall include bank statements which keep cash receipts and disbursements related to the securities offering separate from other receipts and disbursements of the issuer;

(2) Current financial statements, prepared according to generally accepted accounting principles, for the issuer for the most recent three (3) years (or the life of the issuer if less than three (3) years). These statements **shall not be required to be audited, but shall [**~~need not be audited, but must~~**]** be verified as true and accurate within the actual knowledge of the issuer's chief financial officer (or chief executive officer if the issuer has no specified financial officer);

(3) Employment contracts with agents, if any;

(4)**(a)** For any unregistered employees of the firm who contact investors or potential investors, documentation of the manner in which the employee is compensated.

(b) If the employee is compensated by salary and bonus, **[**~~include~~**]** documentation of the factors used in determining the amount of the bonus;

(5)**(a)** Copies of any scripts or other materials used to train agents in the selling of the securities.

(b) Copies of any **[**~~such~~**]** materials used to train unregistered employees who contact investors or potential investors;

(6)**(a)** Copies of any scripts or other materials prepared for use by agents in discussing the securities with potential purchasers.

(b) Copies of **[**~~any such~~**]** materials prepared for use by unregistered employees who contact investors or potential investors;

(7) Copies of any general advertising or promotional material utilized by the issuer during the period of the offering whether or not related directly to the securities offering;

(8) Copies of any prospectus or similar offering document used in the offer or sale of the issuer's securities and, if any **[**~~such~~**]** document was revised during the offering period, copies of all versions of the document with notation of the dates during which each document was utilized;

(9) All material contracts related to the offering (**such as** leases, employment contracts, supplier or vendor contracts, turnkey contracts, etc.);

(10) Any professional opinion letters related to the offering (**such as those** from attorneys, accountants, experts, etc.);

(11) All subscription (or other requests to purchase) materials completed by offerees;

(12) All correspondence to or from potential investors;

(13) Customer files that document contact information for all purchasers of the issuer's securities and containing copies of all correspondence either received from or sent to **these[**~~such~~**]** purchasers. These files shall also contain any other information necessary to determine that the sales complied with all requirements of any exemptions from registration of the securities claimed by the issuer and with any other applicable **administrative** regulations, including that the investment is suitable for the purchaser;

(14) A file documenting compliance with the securities laws of all relevant jurisdictions (including the Securities and Exchange Commission if the offering is across state lines) both in the offering and selling of the securities, and in the payment of compensation to the agents; and

(15) A complaint file for the offering which shall contain:

(a) Copies of any written (including electronic transmissions) complaints related to the offering of securities;

(b) A written summary of any oral complaint related to the offering with contact information for the complainant;

(c) Copies of any written responses to complaints; and

(d) A written summary of the disposition of each complaint.

Section 2. All books and records required under Section 1 of this administrative regulation shall be readily available for inspection by representatives of the department upon request without notice.

Section 3. The books and records required under Section 1 of this administrative regulation shall be maintained in a readily accessible format for a period of at least three (3) years after the conclusion of the securities offering.

Section 4. Incorporation by Reference. (1) "Offering Document Guidelines", revised April 2009, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner

APPROVED BY AGENCY: March 14, 2011

FILED WITH LRC: March 15, 2011, at 11 a.m.

CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Department of Financial Institutions
Securities Division
(As Amended at ARRS, May 10, 2011)

808 KAR 10:490. Procedures for distributing and using funds from the Securities Fraud Prosecution and Prevention Fund.

RELATES TO: KRS 292.322

STATUTORY AUTHORITY: KRS 292.322(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.322(6) requires the commissioner to promulgate administrative regulations, in consultation with the Attorney General and local prosecutors, for the use of money in the Securities Fraud Prosecution and Prevention Fund. This administrative regulation establishes the procedures for distributing and using the money from the Securities Fraud Prosecution and Prevention Fund.

Section 1. Definitions. (1) "**Commissioner" is defined by KRS 292.310(4).**

(2) "Department" is defined by KRS 292.310(7)**.[**~~;~~

~~(2) "Commissioner" is defined by KRS 292.310(4);~~**]**

(3) **"Outside agency" means:**

(a) The office of the Kentucky Attorney General;

(b) The office of the United States Attorney;

(c) The office of any county or Commonwealth attorney in Kentucky; or

(d) Any other state or federal regulatory or criminal enforcement agency.

(4) "Securities Fraud Prosecution and Prevention Fund" means the account established under KRS 292.322(1)**.[**~~; and~~

~~(4) "Outside agency" means:~~

~~(a) The office of the Kentucky Attorney General;~~

~~(b) The office of the United States Attorney;~~

~~(c) The office of any county or commonwealth attorney in Kentucky; or~~

~~(d) Any other state or federal regulatory or criminal enforcement agency.~~**]**

Section 2. Authorization for Use of Funds. (1) The commissioner **may[**~~is authorized to~~**]** disburse funds held in the Securities Fraud Prosecution and Prevention Fund to cover the expenses of the department or an outside agency for the purposes of prosecuting or aiding the prosecution of fraudulent securities-related activities, whether arising from an investigation initiated or conducted by the department or from the independent investigation of an outside agency. In addition, the funds may be used to cover the expenses for training related to the prevention, detection, or investigation of securities-related fraud, and **for** consumer education aimed at preventing victimization by securities-related fraud.

(2) Authorized expenses may relate to the following:

(a) Training and equipment;

(b) Investigation;

(c) Trial preparation and trial, including discovery;

(d) Witness expenses;

(e) Travel expenses;

(f) Sentencing;

(g) Appeal; or

(h) Consumer education initiatives.

Section 3. Application and Approval for Disbursement of Funds. (1) The department may utilize any of the following for application, approval, and disbursement of funds to an outside agency:

(a) A written agreement or memorandum of understanding with an outside agency covering actual expenses for a set period of time or the actual expenses for a particular prosecution, investigation, training, or initiative. Each agreement or memorandum of understanding shall be signed by the commissioner and an authorized representative of the outside agency and shall identify:

1. The effective period;

2. The expenses to be covered;

3. The dollar limit, if any; and

4. The manner and form of billing expenses and the process for disbursement of funds.

(b) A written application submitted to the department for payment of prosecution-related or other authorized expenses shall include the following information:

1. The agency applicant name, address, and contact information;

2. A detailed description and estimated amount of the expenses sought to be covered, or if expenses have already been incurred, proof of incurrence of **these[**~~such~~**]** expenses;

3. A detailed description of the cases, persons, and crimes being considered for prosecution, if applicable; and

4. A detailed description of the expenses, training, or initiative being proposed or sought for reimbursement.

(c) For funds sought to be utilized for the purposes set forth in Section 2 of this administrative regulation, the commissioner shall maintain an accounting and memorandum of all these expenditures which shall include the information required under paragraph (b) of this subsection.

(2) The commissioner shall approve or deny the application for funds in writing. The approval shall contain the terms of disbursement including the maximum amount to be reimbursed, the billing process to be implemented, and reporting requirements for the disbursement of funds.

(3) A completed invoice or voucher in a form acceptable to the commissioner shall be submitted for all expenses for which payment or reimbursement from the account is sought.

Section 4. Funding Criteria. Allocation of funds by the commissioner to other agencies shall be based on funds available in the account established under the provisions of KRS 292.322 and the following criteria:

(1) The likelihood that any investigation or inquiry will lead to criminal prosecution;

(2) Whether criminal prosecution is imminent; or

(3) A demonstration of need for funds to accomplish the purposes set forth in Section 2 of this administrative regulation.

Section 5. Disbursement Limitation. The commissioner **shall not be[**~~is not~~**]** required to disburse any funds unless the Securities Fraud Prosecution and Prevention Fund contains sufficient funds to cover the agreed disbursements. The commissioner and the department shall not be required to make disbursements from the department's own operating funds.

Section 6. Confidentiality of Information Provided in Funding Applications. The commissioner shall **keep[**~~deem~~**]** confidential and withhold from public inspection all information provided by outside agencies that:

(1) Is furnished to the department on the express condition that the information remain confidential; or

(2) The commissioner **determines is[**~~deems~~**]** necessary to withhold to protect the public welfare by avoiding the premature or unwarranted disclosure of information concerning any criminal investigation, prosecution, or litigation. **[**~~(3) This is to certify that the persons signing below have reviewed or approved this administrative regulation, prior to its filing by the Department of Financial Institutions with the Legislative Research Commission as required by KRS 13A.220(6)(b).~~**]**

ROBERT D. VANCE, Secretary
CHARLES A. VICE, Commissioner
APPROVED BY AGENCY: March 14, 2011
FILED WITH LRC: March 15, 2011, at 11 a.m.
CONTACT PERSON: Simon Berry, Staff Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 232, fax (502) 573-2183.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, May 10, 2011)

810 KAR 1:001. Definitions.

RELATES TO: KRS Chapter 230[~~230.210-230.360~~]
STATUTORY AUTHORITY: KRS 230.215, 230.225**(5)[**~~(7)~~**],** 230.260**, 230.361(1),** 230.370
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation defines the terms used in 810 KAR Chapter 1.[~~To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this administrative regulation is to define the terms used in the authority's administrative regulations.~~]

Section 1. Definitions. (1) "Added money" means cash, exclusive of trophy or other award, added by the association to stakes fees paid by subscribers to form the total purse for a stakes race.

(2) **[**~~"Administrative regulation" when used in the singular means a specific numbered administrative regulation.~~

~~(3) "Administrative regulations" when used in the plural, means all current administrative regulations promulgated by the commission.~~

~~(4)~~**]**[~~(2)~~] "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1 of the year in which the horse was foaled.

(3)[~~(5)~~**]**[~~(3)~~] "Arrears" means all sums due by a licensee as reflected by his or her account with the horsemen's bookkeeper, including subscriptions, jockey fees, forfeitures, and any default incident to **810 KAR Chapter 1[**~~these administrative regulations~~**]**.

(4)[~~(6)~~**]** "Association" is defined by KRS 230.210(1).

(5) [~~(7) "Authority" is defined by KRS 230.210(2).~~

~~(8)~~][~~(4) "Association" means any person or legal entity, required to be licensed under KRS 230.300 to conduct a race meeting, and when used herein, the association conducting a race meeting where such rule is applicable.~~

~~(5) "Authority" means the Kentucky Horse Racing Authority.~~

~~(6)~~] "Authorized agent" means any person currently licensed as an agent for a licensed owner or jockey[~~principal~~] by virtue of notarized appointment of agency filed[~~lodged~~] with the commission[~~authority~~].

(6)[~~(9)~~][~~(7)~~] "Betting interest" means a single horse, or more than one (1) horse joined as a mutuel entry or joined in a[~~the~~] mutuel field, on which a single pari-mutuel wager may be placed.

(7)[~~(10)~~][~~(8)~~] "Bleeder" means any horse known to have bled internally or from its nostrils during a workout or race.

(8)[~~(11)~~**]** "Breakage" means the net pool minus payout.

(9)[~~(12)~~][~~(9)~~] "Breeder" means the owner of the dam of a horse **when[**~~at the time~~**]** the horse was foaled. A horse is "bred" at the place of its foaling.

(10)[~~(13)~~**]** "Calendar days" means consecutive days counted irrespective of number of racing days.

(11)[~~(14)~~**]** "Carryover" means nondistributed pool monies which are retained and added to a corresponding pool in accordance with 810 KAR Chapter 1.

(12)[~~(15)~~][~~(10)~~] "Claiming race" means any race in which every horse running **in the race[**~~therein~~**]** may be transferred in conformity with **810 KAR Chapter 1[**~~these administrative regulations~~**]**.

(13)[~~(16)~~][~~(11)~~] "Closing" means the time published by the association after which entries for a race will not be accepted by the racing secretary.

(14)[~~(17)~~**]** "Commission" means**:**

(a) The Kentucky Horse Racing Commission (formerly known as the Kentucky Horse Racing Authority and defined in KRS 230.210(2)) **if[**~~when~~**]** used in the context of the administrative agency governing horse racing and pari-mutuel wagering; **and**

(b) If[~~when~~**]** used in the context of pari-mutuel wagering, **[**~~means~~**]** the amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615.

(15)[~~(18)~~][~~(12)~~] "Day" means any twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight.

(16)[~~(19)~~**]** "Dead heat" means a finish of a race in which the noses of two (2) or more horses reach the finish line at the same time.

(17)[~~(20)~~][~~Racing day means a day on which races are conducted. Calendar days means consecutive days counted irrespective of number of racing days.~~

~~(13)~~] "Declaration" means the withdrawal of a horse entered in a race prior to time of closing of entries **for the race[**~~therefore~~**]** in conformance with 810 KAR Chapter 1.

(18)[~~(21)~~**]** "Designated area" means any enclosed area that the commission has approved for the location of terminals used for wagering on an historical horse race.

(19)[~~(22)~~**]** "Disciplinary action" means action taken by the stewards or the commission for a violation of **KRS Chapter 230 or 810 KAR Chapter 1 and can include:**

(a)[~~a statute or administrative regulation and can include,~~**]** Refusal to issue or renew a license**;**

(b)[~~,~~**]** Revocation or suspension of a license**;**

(c)[~~,~~**]** Imposition of probationary conditions on a license**;**

(d)[~~,~~**]** Issuance of a written reprimand or admonishment**;**

(e)[~~,~~**]** Imposition of fines or penalties**;**

(f)[~~,~~**]** Denial of purse money**;**

(g)[~~,~~**]** Forfeiture of purse money**; or**

(h) Any combination of paragraphs (a) through (g) of this subsection[~~, or any combination thereof~~**]**.

(20)[~~(23)~~][~~(14) "Disciplinary action" means action taken by the stewards or the authority for a violation of an administrative regulation and can include suspension, revocation, voidance of a license, ejection or exclusion from association grounds, assessment of a forfeiture, or reprimand, any combination thereof.~~

~~(15)~~] "Disqualification" means a ruling of the stewards or the commission[~~authority~~] revising the order of finish of a race.

(21)[~~(24)~~][~~(16)~~] "Entry" means the act of nominating a horse for a race in conformance with **810 KAR Chapter 1[**~~these administrative regulations~~**]**.

(22)[~~(25)~~][~~(17)~~] "Equipment" means accoutrements[~~accouterments~~] other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes whip, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(23)[~~(26)~~][~~(18)~~] "Exhibition race" means a race between horses of diverse ownership for which a purse is offered by the association, but on which no pari-mutuel wagering is permitted.

(24)[~~(27)~~**]** "Exotic wager" means any pari-mutuel wager placed on a live or historical horse race other than a win, place, or show wager placed on a live horse race.

(25)[~~(28)~~**]** "Field" or "mutuel field" means a single betting interest involving more than one (1) horse which is not a mutuel entry.

(26)[~~(29)~~][~~(19) "Field, or mutuel field" means a single betting interest involving more than one (1) horse formed when the number of horses starting in a race exceeds the numbering capacity of the totalizator, and the highest numbered horse within the numbering capacity of the totalizator and all horses of a higher number are grouped in the mutuel field.~~

~~(20)~~] "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative ruling of the stewards or the commission[~~authority~~].

(27) "Free handicap" means a handicap for which no nominating fee is required to be weighted, but an entrance or starting fee may be required for starting in the race.

(28)[~~(30)~~][~~(21)~~] "Handicap race" means a race in which the weights to be carried by the horses **[**~~therein~~**]**are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered in the race. **[**~~A "free handicap" means a handicap for which no nominating fee is required to be weighted, but an entrance or starting fee may be required for starting therein.~~**]**

(29)[~~(31)~~**]** "Handle" means the aggregate of all pari-mutuel pools, excluding refundable wagers.

(30)[~~(32)~~**]** "Historical horse race" means any horse race that**:**

(a) Was previously run at a licensed pari-mutuel facility located in the United States**;**

(b)[~~and that~~**]** Concluded with official results**; and**

(c)[~~. An historical horse race must have~~**]** Concluded without scratches, disqualifications, or dead-heat finishes.

(31)[~~(33)~~][~~(22)~~] "Horse" means a thoroughbred registered with The Jockey Club [~~in New York~~] **[**~~and when used in these administrative regulations, any thoroughbred~~**]** irrespective of age or sex designation.

(32)[~~(34)~~][~~(23)~~] "Ineligible" means a horse or person not qualified under **810 KAR Chapter 1[**~~these administrative regulations~~**]** or conditions of a race to participate in a specified racing activity.

(33)[~~(35)~~**]** "Initial seed pool" means a nonrefundable pool of money funded by an association in an amount sufficient to ensure that a patron will be paid the minimum amount required on a winning wager on an historical horse race.

(34)[~~(36)~~][~~(24)~~] "Jockey" means a rider currently licensed to ride in races as a jockey, apprentice jockey, amateur jockey, or a provisional jockey permitted by the stewards to ride in three (3) races prior to applying for a license.

(35)[~~(37)~~][~~(25)~~] "Lessee" means a licensed owner whose interest in a horse is a leasehold[~~leaseholder~~].

(36)[~~(38)~~**]** "Licensed premises" means the location and physical plant described in response to question P of the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in 2010. Licensed premises may also include real property of an association, if the association receives approval from the commission for a new location at which live racing will be conducted.

(37)[~~(39)~~**]** "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative[~~means a person or association~~] that has been duly issued a currently valid license to participate in racing in the[~~this~~] Commonwealth.

(38)[~~(40)~~][~~(27)~~] "Maiden" means a horse which has never won a race on the flat at a recognized meeting in any country. A maiden which was disqualified after finishing first remains a maiden. Race

conditions referring to maidens shall be interpreted as meaning maidens at the time of starting.

(39)[~~(41)~~][~~(28)~~] "Match race" means a race between two (2) horses[~~,~~] for which no other horses are eligible.

(40)[~~(42)~~][~~(29)~~] "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission[~~authority~~] to a licensed association for the conduct of live horse racing. A meeting shall begin at 10 a.m. of the first racing day and extend through a period ending one (1) hour after the last scheduled race of the last day.

(41)[~~(43)~~] "Minus pool" means a pari-mutuel pool in which the amount of money to be distributed on winning wagers exceeds the amount of money contained in the net pool.

(42)[~~(44)~~][~~(30)~~] "Month" means calendar month.

(43)[~~(45)~~][~~(31)~~] "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a mutuel entry is a wager on all horses joined in the same mutuel entry.

(44)[~~(46)~~] "Net pool" means the total amount wagered less refundable wagers and takeout.

(45) "Nomination" means a subscription or entry of a horse in a stakes or early closing race.

(46)[~~(47)~~] [~~(32) "Mutuel field" means the same as "field."~~

~~(33)~~] "Nominator" means the person in whose name a horse is[~~in~~] entered for a race. **[**~~"Nomination" is a subscription or entry of a horse in a stakes or early closing race.~~**]**

(47)[~~(48)~~][~~(34)~~] "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for the horse.

(48)[~~(49)~~] "Pari-mutuel wagering," "mutuel wagering", or "pari-mutuel system of wagering" each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one or more designated wagering pools and the net pool is returned to the winning patrons.

(49)[~~(50)~~] "Patron" means an individual present at a track or a simulcast facility who observes or wagers on a live or historical horse race.

(50)[~~(51)~~] "Payout" means the amount of the net pool payable to an individual patron on his or her winning wager.

(51)[~~(52)~~][~~(35)~~] "Place," **if[**~~when~~**]** used in the context of a single position in the order of finish in a race, means second; **if[**~~when~~**]** used in the context of pari-mutuel wagering, a "place" wager means one involving a payoff on a betting interest which finished first or second in a race; **if[**~~when~~**]** used in the context of multiple positions in the order of finish in a race, "place or placing" means finishing first**[**~~,~~**]** or second.

(52)[~~(53)~~][~~(36)~~] "Post" means the starting point of a race.

(53)[~~(54)~~][~~(37)~~] "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(54)[~~(55)~~][~~(38)~~] "Post time" means the advertised moment scheduled for the arrival of all horses at the starting point for a race.

(55)[~~(56)~~][~~(39)~~] "Prize" means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

(56)[~~(57)~~][~~(40)~~] "Purse" means the gross cash portion of the prize for which a race is run.

(57)[~~(58)~~][~~(41)~~] "Purse race" means any race for which entries close at a time designated by the racing secretary[~~less than seventy-two (72) hours prior to its running~~], and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(58)[~~(59)~~][~~(42)~~] "Race" means a running contest between thoroughbreds, ridden by jockeys, over a prescribed course free of obstacles or jumps, at a recognized meeting, during regular racing hours, for a prize.

(59)[~~(60)~~] "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight **in[**~~on~~**]** which live racing is conducted by an association.

(60)[~~(61)~~][~~(43)~~] "Racing official" means a racing commission[~~authority~~] member, commission[~~authority~~] staff as duties require, and all association racing department employees, as duties require.

(61)[~~(62)~~][~~(44)~~] "Recognized meeting" means any meeting with regularly scheduled live horse races for thoroughbreds on the flat, licensed by and conducted under administrative regulations promulgated by a governmental regulatory body, to include foreign countries which are regulated by a racing authority which has reciprocal relations with The Jockey Club[~~of New York~~] and whose race records can be provided to an association by The Jockey Club.

(62)[~~(63)~~][~~(45)~~] "Registration certificate" means**:**

(a) The document issued by The Jockey Club[~~of New York~~] certifying[~~as to~~] the name, age, color, sex, pedigree, and breeder of a horse as registered by number with The Jockey Club**; or**

(b)[~~. It shall be deemed to refer also to~~**]** The document known as a "racing permit" issued by The Jockey Club in lieu of a registration certificate **if[**~~when~~**]** a horse is recognized as a thoroughbred for racing purposes in the United States, but is not recognized as a thoroughbred for breeding purposes insofar as registering its progeny with the Jockey Club.

(63)[~~(64)~~] "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pools.

(64)[~~(65)~~][~~(46) "Administrative regulations" when used in the plural, shall be deemed to mean all current administrative regulations promulgated by the authority; when used in the singular, shall be deemed to be confined to the numbered administrative regulation.~~

~~(47)~~] "Rulings" means all determinations, decisions, or orders of the stewards or of the commission[~~authority~~] duly issued in writing and posted.

(65)[~~(66)~~][~~(48)~~] "Scratch" means the withdrawal of a horse entered for a race after the time of closing of entries **for the race[**~~therefore~~**]** in conformance with **810 KAR Chapter 1[**~~these administrative regulations~~**]**.

(66)[~~(67)~~][~~(49)~~] "Scratch time" means the time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(67)[~~(68)~~][~~(50)~~] "Secretary" means the duly appointed and currently serving secretary of the commission.

(68)[~~(69)~~] "Seed pool" means a pool of money funded by patrons wagering on an historical horse race that is used to ensure that all patrons are paid the minimum payout on winning wagers.

(69)[~~(70)~~][~~authority.~~

~~(51)~~] "Specimen" means a sample of blood, urine, or other biologic sample[~~specimen~~] taken or drawn from a horse for chemical testing.

(70)[~~(71)~~][~~(52)~~] "Stakes" means all fees paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as may be required by the conditions of the race. These fees shall be included in the purse.

(71)[~~(72)~~][~~(53)~~] "Stakes race" means a race which closes more than seventy-two (72) hours in advance of its running and for which subscribers contribute money towards its purse, or a race for which horses are invited by an association to run for a guaranteed purse of $50,000 or more without payment of stakes. With the exception of stakes races in North America, "stakes race" shall exclude races not listed by The Jockey Club Information System International Cataloguing Standards, Part One (1).

(72)[~~(73)~~] "Steward"[~~(54) "Stewards"~~] means a duly appointed racing official[~~officials~~] with powers and duties specified in 810 KAR 1:004 serving at a current meeting in the[~~this~~] Commonwealth.

(73)[~~(74)~~][~~(55)~~] "Starter" means a horse in a race when the starting-gate doors open in front of it at the moment the starter dispatches the horses for a race.

(74)[~~(75)~~][~~(56)~~] "Subscription" means nomination or entry of a horse in a stakes race.

(75)[~~(76)~~] "Takeout" means the total amount of money, excluding breakage and any amounts allocated to a seed pool, withheld from each pari-mutuel pool, as authorized by KRS 230.3615 and 810 KAR Chapter 1.

(76)[~~(77)~~] "Terminal" means any self-service totalizator machine or other mechanical equipment used by a patron to place a

pari-mutuel wager on a live or historical horse race.

(77)[~~(78)~~**]**[~~(57)~~] "Thoroughbred racing" **is defined by KRS 230.210(3)[**~~means running contests between horses registered with The Jockey Club~~**]**[~~of New York~~]**[**~~, certified as having a thoroughbred pedigree, and ridden by a jockey. Thoroughbred racing shall be licensed by a governmental regulatory body~~**]**.

(78)[~~(79)~~**]** "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers, calculates the odds and prices of **the[**~~such~~**]** wagers, and records, displays, and stores pari-mutuel wagering information.

(79)[~~(80)~~**]** "Unplaced" means a horse that finishes a race outside the pari-mutuel payoff.

(80)[~~(81)~~**]**[~~(59) (58) "Unplaced" means not among the first three (3) horses finishing a race.~~] "Walkover" means a race in which the only starter or all starters represent single ownership.

(81)[~~(82)~~**]**[~~(60)~~] "Weigh in" means the presentation of a jockey to the clerk of scales for weighing after a race.

(82)[~~(83)~~**]**[~~(61)~~] "Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

(83)[~~(84)~~**]**[~~(62)~~] "Weight for age" means the standard assignment of pounds to be carried by horses in races at specified distances during specified months of the year, scaled according to the age of the horse as set out in 810 KAR 1:014(12).

(84)[~~(85)~~**]**[~~(63)~~] "Workout" means the training exercise of a horse on the training track or main track of an association during which the horse is timed for speed over a specified distance.

(85)[~~(86)~~**]**[~~(64)~~] "Year" means twelve (12) consecutive months beginning with January and ending with December.

Section 2. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary
APPROVED BY AGENCY: July 20, 2010
FILED WITH LRC: July 20, 2010 at 2 p.m.
CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, May 10, 2011)

810 KAR 1:011. Pari-mutuel wagering.

RELATES TO: KRS **138.510-138.550,** 230.210-230.375, 230.990
STATUTORY AUTHORITY: KRS 230.215, 230.240, 230.260, 230.280, 230.290, 230.300, 230.310, 230.320, 230.361, 230.370[~~260.361~~]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which thoroughbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the authority to promulgate administrative regulations governing and regulating mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and 810 KAR Chapter 1[~~KRS 230.361(1) requires the authority to promulgate administrative regulations governing mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the requirements for the operation of pari-mutuel wagering~~].

Section 1. Pari-Mutuel System of Wagering Required. (1) The only wagering permitted on a live or historical horse race shall be under the pari-mutuel system of wagering. All systems of wagering other than pari-mutuel shall be prohibited. Any person participating or attempting to participate in prohibited wagering shall be ejected and excluded from association grounds.

(2) Wagering conducted in conformity with KRS Chapter 230 and **810 KAR Chapter 1[**~~these administrative regulations~~**]** is pari-mutuel.

Section 2. Totalizator or Other Approved Equipment Required. (1) Pari-mutuel wagering on live and historical horse races shall only be conducted through the use of a totalizator or other similar mechanical equipment approved by the commission pursuant to KRS 230.361. **[**~~The commission shall not require any particular make of equipment.~~**]**

(2) The totalizator or other mechanical equipment shall be available for testing under the supervision of the commission upon request **by the commission** to ensure its proper working order.

Section 3. Wagering on an Historical Horse Race Authorized. (1) Wagering on an historical horse race is hereby authorized and may be conducted in accordance with KRS Chapter 230 and 810 KAR Chapter 1.

(2) Wagering on an historical horse race shall only be conducted by:

(a) An association licensed to conduct a live horse race meet; or

(b) Two (2) or more associations licensed to conduct a live horse race meet**:**

1. Who form a joint venture**; or**

2.[~~or otherwise~~**]** Pursuant to an agreement between them.

(3) Wagering on an historical horse race shall only be permitted in a designated area on the licensed premises of an association licensed to conduct a live horse race meeting. Wagering on historical horse racing shall not be offered in any other location.

(4) An association may conduct wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets conducted by the association. An association may conduct wagering on historical races on any days and hours approved by the commission, and shall not be limited to times during which the association is conducting a live horse race meeting.

(5) Any wager placed on an historical horse race is an exotic wager.

(6) Before offering wagering on an historical horse race, an association shall first obtain the commission's written approval of all wagers offered as set forth in 810 KAR 1:120.

(7) All wagering on an historical horse race shall incorporate the following elements:

(a) A patron may only wager on an historical horse race on a terminal approved by the commission;

(b) An association shall at all times maintain at least two (2) terminals offering each type of exotic wager on an historical horse race;

(c) Once a patron deposits the wagered amount in the terminal offering wagering on an historical horse race, an historical horse race shall be chosen at random;

(d) Prior to the patron making his or her wager selections, the terminal shall not display any information that would allow the patron to identify the historical race on which he or she is wagering, including the location of the race, the date on which the race was run, the names of the horses in the race, or the names of the jockeys that rode the horses in the race;

(e) The terminal shall make available true and accurate past performance information on the historical horse race to the patron prior to making his or her wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form; and

(f) After a patron finalizes his or her wager selections, the terminal shall display a video replay of the race, or a portion thereof, and the official results of the race. The identity of the race shall be revealed to the patron after the patron has placed his or her wager.

Section 4. Payouts Only Out of Pari-Mutuel Pools: Seed Pools Required. (1)(a) A wager on an historical horse race, less deductions permitted by KRS Chapter 230 or **810 KAR Chapter 1[**~~these~~

~~administrative regulations~~**]**, shall be placed in pari-mutuel pools approved by the commission.

(b) A payout to a winning patron shall be paid from money wagered by patrons and shall not constitute a wager against the association.

(c) An association conducting wagering on an historical horse race shall not conduct wagering in such a manner that patrons are wagering against the association, or in such a manner that the amount retained by the association as a commission is dependent upon the outcome of any particular race or the success of any particular wager.

(2) An association shall only pay a winning wager on an historical horse race out of the applicable pari-mutuel pool and shall not pay a winning wager out of the association's funds. **[**~~In no event shall~~**]**Payment of a winning wager **shall not** exceed the amount available in the applicable pari-mutuel pool.

(3) An association offering wagering on an historical horse race shall operate seed pools in a manner and method approved by the commission **as set forth in 810 KAR 1:120**. For each wager made, an association may assign a percentage of the wager to seed pools. The seed pools shall be maintained and funded so that the amount available at any given time is sufficient to ensure that a patron will be paid the minimum amount required on a winning wager.

(4) An association shall provide the funding for the initial seed pool for each type of exotic wager. The funding for the initial seed pool shall be non-refundable and in an amount sufficient to ensure that a patron will be paid the minimum amount required on a winning wager.

Section 5. Location of Terminals Used for Wagering on an Historical Horse Race. (1) Terminals offering wagering on historical horse races shall be located within designated areas which have the prior written approval of the commission. Designated areas shall be established in such a way as to control access by the general public and prevent entry by any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers**[**~~on an historical horse race~~**]**.

(2) Each association shall **monitor [**~~be responsible for monitoring~~**]** persons entering and leaving the designated areas and shall **prevent [**~~be responsible for preventing~~**]** access to any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers on historical horse races.

(3) Each association shall provide terminals that are accessible to handicapped patrons.

Section 6. Records to be Maintained. (1) Each association and each simulcast facility authorized under KRS 230.380 shall maintain complete records of all pari-mutuel wagering transactions on live and historical horse races, including the amounts wagered at each betting window, self-service totalizator, mobile pari-mutuel teller, and terminal.

(2) A copy of the wagering records shall be retained and safeguarded for a period of not less than two (2) years and shall not be destroyed without the prior written permission of the commission.

Section 7. Equipment. (1) The association and the totalizator provider shall install a primary and secondary device, which activate the stop betting function of the totalizator system. The chief state steward, or his or her designee, shall use the primary device to stop wagering at the start of **a live horse race. If[**~~the race. In the event that~~**]** wagering is not stopped by the primary device at the start of the race, the totalizator operator shall stop wagering using the secondary device. The secondary device shall be installed in the totalizator room and shall only be used by the totalizator operator.

(2) If there is a complete breakdown of the totalizator or mechanical equipment during the wagering on a live horse race, the wagering on that race shall be declared closed. If the totalizator remains capable of computing payouts, the payouts for that race shall be computed based on the amounts wagered prior to the breakdown. If the totalizator is incapable of computing payouts, then refunds shall be issued for all amounts wagered on that race.

(3) If there is a complete breakdown of a terminal offering wagering on an historical horse race, the association offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown.

Section 8. Entries in a Live Horse Race. (1) The chief state steward shall timely advise an association's pari-mutuel manager, prior to the beginning of wagering on each **live horse** race, of the horses that will compete in the race.

(2) If two (2) or more horses entered for the same live horse race are determined by the commission to have common ties through ownership or training**,** they may be joined by the commission as a mutuel entry. The mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. If the number of horses competing in a live horse race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator together with horses of higher numbers, shall be grouped in the mutuel field as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.

(3) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race that has been scratched or withdrawn before the horse has become a starter, unless the horse is part of a mutuel entry, and one (1) or more of the entry starts.

Section 9. Sale of Pari-Mutuel Tickets on Live Horse Races. (1) The following types of pari-mutuel wagering shall be permitted on a live horse race at all licensed associations and simulcast facilities:

(a) Normal win, place, and show wagers on each race;

(b) Any exotic wager previously approved by the commission; and

(c) Any new exotic wager approved in writing by the commission **pursuant to 810 KAR 1:120**.

(2) Pari-mutuel tickets on live horse races shall not be sold except by a licensed association or a simulcast facility authorized by KRS 230.380.

(3) Pari-mutuel tickets on a live horse race shall only be sold at regular ticket windows, self-service totalizator machines, by mobile pari-mutuel tellers with hand-held totalizator devices, or by any other method approved in writing by the commission prior to being offered to the public. At least one (1) regular ticket window shall be made accessible to handicapped patrons.

(4)(a) Pari-mutuel stored value cards or cash vouchers may be offered by an association. The dollar amount on the stored value card or cash voucher may be redeemed at any time at any regular ticket window or used to fund additional wagers.

(b) Cash vouchers shall be valid for one (1) year after the date of issuance. Failure to present any cash voucher for redemption within one (1) year of issuance shall constitute a waiver of the right to receive payment **on the voucher[**~~thereon~~**]**.

(5) **A[**~~No~~**]** pari-mutuel wager shall **not** be made on a race after the totalizator has been locked for that race.

(6) Any claim by a patron that he or she has been issued a pari-mutuel ticket other than that which was requested shall be made before the patron has left the ticket window or before the mobile teller has initiated a transaction with another patron. **A claim for an incorrect ticket shall not[**~~No claims for incorrect tickets will~~**]** be honored after the totalizator has been locked.

Section 10. Payment on Pari-Mutuel Tickets on Live Horse Races. (1) At the end of each **live horse** race, the placing judges shall advise the manager of the pari-mutuel department by the use of the totalizator equipment or by telephone of the official placement of the horses, and **[**~~no~~**]** payouts shall **not** be made until the receipt of the notice.

(2) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as declared "official" by the stewards. A subsequent change in the order of finish or award of purse money that may result from a subsequent ruling by the stewards or commission shall not affect the pari-mutuel payout.

(3) Each association shall deduct from each pari-mutuel pool a commission, not exceeding the commission provided by KRS 230.3615. The remainder of the pool after the deduction of the commission shall be the net pool for distribution as payouts to ticket holders.

(4) Payment on valid pari-mutuel tickets shall be made only if presented and surrendered within one (1) year following the running of the live horse race on which the wager was made. Failure to present **a[**~~any such~~**]** ticket within one (1) year shall constitute a waiver of the right to receive payment **on the ticket[**~~thereon~~**]**.

(5) The association shall be responsible for the correctness of all payout prices posted as "official." If an error is made in posting the payout figures, and ascertained before any tickets are cashed **[**~~thereon~~**]**, the posting error shall be corrected, accompanied by a public address announcement, and only the correct amounts shall be used in the payout, irrespective of the initial error.

(6) A mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall not be accepted for payment.

(7) An association shall establish a written procedure for granting patrons an opportunity to file a claim on a lost pari-mutuel ticket and provide a copy to the commission.

(8) Prior to posting payouts, the association's pari-mutuel manager shall require the verification of the winning runners and prices prior to posting official results.

(9)(a) If an error is made in calculating the payout on a winning wager, resulting in overpayment, the association shall be responsible for the amount between the correct payout and the amount paid.

(b) If the error in calculation results in a payout being too low, the amount between the correct payout and the amount paid shall be added to the net pool of the same position in the following race on the same day or, if it is the last race of the day, then it shall be added to the net pool of the same position in the same race on the following day. If an error occurs in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day.

(c) If an error occurs causing underpayment on the last race of the entire racing meeting, the amount of the underpayment shall be paid to the Kentucky Revenue Cabinet.

Section 11. Minimum Wagers and Payouts. (1) The minimum wager to be accepted by any licensed association on a live horse race shall be ten (10) cents. The minimum payout on a one (1) dollar wager on a live horse race shall be one (1) dollars and ten (10) cents, unless a minus pool occurs. If a minus pool occurs, the minimum payout for a one (1) dollar wager shall be one (1) dollar and five (5) cents.

(2) The minimum wager to be accepted by any licensed association on an historical horse race shall be ten (10) cents. The minimum payout on any wager shall not be less than the amount wagered.

Section 12. Minors Prohibited from Wagering. A minor shall not be permitted by any licensed association or simulcast facility to purchase or cash a pari-mutuel ticket.

Section 13. Odds and payouts posted. (1) Approximate odds for live horse races, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public at intervals of not more than ninety (90) seconds.

(2) If daily double wagering is conducted on a live horse race, before off-time of the second daily double race, the probable payout for each two (2) dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race shall be posted; except that if a dead heat for first in the first daily double race occurs, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payouts shall not be mandatory, but the association shall make every effort to compute such daily double prices and advise the public by posting or public address announcement as soon as possible and prior to the running of the second daily double race.

(3) For wagering on an historical horse race, approximate odds or payouts for each wagering pool shall be posted on each terminal for viewing by patrons at intervals of no more than ninety (90) seconds.

Section 14. Betting Explanation. (1) Each association shall publish in the daily race program, for each day of live horse racing, a general explanation of pari-mutuel wagering offered on live horse races and an explanation of each type of betting pool offered. The explanation also shall be posted in conspicuous places about the association grounds to adequately inform the public and shall be submitted to the commission prior to publication for approval.

(2) Each association shall post, in conspicuous places in the designated area, a general explanation of pari-mutuel wagering offered on historical horse races and an explanation of each betting pool offered. The explanation shall be submitted to the commission for approval prior to its posting.

Section 15. Prior Approval Required for Number of Live Horse Races. Each association desiring to conduct more than nine (9) live horse races on a single day shall first apply in writing to the commission and obtain specific approval of the number of live horse races to be offered on a single day.

Section 16. Pools Dependent upon Entries for Live Horse Races. (1) If horses representing five (5) or fewer betting interests qualify to start in a live horse race, the association may prohibit show wagering on that race. If horses representing four (4) or fewer betting interests qualify to start in a live horse race, the association may prohibit both place and show wagering on that race.

(2) If a horse is scratched by the stewards after wagering has commenced or a horse is prevented from running in a live horse race because of failure of a starting-gate door to open properly, and the number of actual starters representing different betting interests is:

(a) Reduced to five (5), the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets; or

(b) Reduced to four (4) or fewer, the association may cancel both place and show wagering on that race and the entire place and show pool shall be refunded upon presentation and surrender of place and show tickets.

Section 17. Emergency Situation. If any emergency arises in connection with the operation of the pari-mutuel department not provided for by this administrative regulation, the pari-mutuel manager shall take immediate corrective action and shall by the quickest means possible notify the chief state steward and render a full report to the commission.

Section 18. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby. [~~Section 1. Pari-mutuel System of Wagering Required. Permitted wagering shall be under the pari-mutuel system, employing an electric totalizator or other mechanical equipment approved by the authority pursuant to KRS 230.361(1). All systems of wagering other than pari-mutuel, including but not limited to bookmaking and auction pool selling, shall be prohibited. Any person participating or attempting to participate in prohibited wagering shall be excluded from association grounds.~~

~~Section 2. Totalizator Required. Each association shall install and operate during its race meeting an electric totalizator or other mechanical equipment approved by the authority pursuant to KRS 230.361(1). The totalizator or other mechanical equipment shall be tested daily under the supervision of the authority to insure its proper working order.~~

~~Section 3. Records to be Maintained. The pari-mutuel manager shall maintain complete records of all wagering so the authority may upon review ascertain for any race: the opening line and subsequent odds fluctuations, and the amount, and at which window, wagers were placed on any betting interest. A copy of the wagering records shall be retained by each association and safeguarded for a period not less than two (2) years and shall not be destroyed without permission of the authority.~~

Section 4. Calculation and Distribution of Pools. The only pari-mutuel wagering pools permitted in this state shall be for win, place, show, daily double, exacta, and quinella, and other exotic wagering approved by the authority as provided by Section 9 of this administrative regulation; each shall have separate and independent calculation and distribution. From each pool there shall be deducted by each association the commission as provided by KRS 230.3615, with the remainder being the net pool for distribution as payoffs to ticket holders. Each association shall present the specific procedures to be used for each type of wagering in their application for dates. Any further changes or additions shall be submitted in writing to the authority for approval.

(1) Refunds. For each type of wagering, the association shall provide the procedures for refunds in writing to the authority at the time the request for the pool is made and the authority shall approve the procedures before implementation.

(2) Race cancelled. For each type of wagering involving more than one (1) race, the association shall submit for authority approval the procedures to be used if a race is cancelled.

(3) Totalizator breakdown. If there is an irreparable breakdown of the totalizator or mechanical equipment during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

Section 5. Minimum Wager and Payoff. The minimum wager to be accepted by any licensed association shall be one (1) dollar. The minimum payoff on a two (2) dollar wager shall be two (2) dollars and twenty (20) cents unless a minus pool occurs. If a minus pool occurs, the minimum payoff for a two (2) dollar wager shall be two (2) dollars and ten (10) cents.

Section 6. Minors Prohibited from Wagering. A minor shall not be permitted by any licensed association to purchase or cash a pari-mutuel ticket.

Section 7. Odds or Payoffs Posted. Approximate odds, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public, at intervals of not more than ninety (90) seconds. If daily double wagering is conducted, before off-time of the second daily double race, the possible payoff for each two (2) dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race shall be posted; except that if a dead heat for first in the first daily double race occurs, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payoffs shall not be mandatory, but the association shall make every effort to compute such daily double prices and advise the public by posting or public-address announcement as soon as possible and prior to the running of the second daily double race.

Section 8. Betting Explanation. Each association shall publish in the daily race program a general explanation of pari-mutuel betting and an explanation of each type of betting pool offered. The explanation also shall be posted in conspicuous places about the association grounds to adequately inform the public and shall be submitted to the authority prior to publication for approval.

Section 9. Prior Approval Required for Betting Pools. Each association desiring to conduct more than nine (9) betting races on a single day, or desiring to offer exotic wagering, shall first apply in writing to the authority and obtain specific approval of the number of betting races and type of wagering to be offered on a single day.

Section 10. Pools Dependent Upon Entries. (1) On each type of wagering not already described in subsections (2) and (3) of this section, the association shall request in writing the procedures for each pool as a function of entries and the authority shall make the final determination.

(2) If horses representing five (5) or fewer betting interests qualify to start in a race, the association may prohibit show wagering on that race. If horses representing four (4) or fewer betting interests qualify to start in a race, the association may prohibit both place and show wagering on that race.

(3) If a horse is excused by the stewards after wagering has commenced or a horse is prevented from racing because of failure of a starting gate door to open properly, and the number of actual starters representing different betting interests is:

(a) Reduced to five (5), the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets; or

(b) Reduced to four (4) or fewer, the association may cancel both place and show wagering on that race and the entire place and show pool shall be refunded upon presentation and surrender of place and show tickets.

Section 11. Pari-mutuel Ticket Sales. (1) Pari-mutuel tickets shall not be sold except by a licensed association. Pari-mutuel tickets shall be sold only at regular windows properly designated by signs showing the type and denomination of tickets to be sold at the windows. A pari-mutuel ticket shall not be sold after the totalizator has been locked and an association shall not be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

(2) Any claim by a person that he has been issued a ticket other than that which he requested, shall be made before he leaves the window and before the totalizator is locked.

(3) After purchasing a ticket and after leaving the ticket window, a person shall not be entitled to enter for the issuance of an incorrect ticket, or to claim a refund or payment for tickets discarded, or lost, or destroyed, or mutilated beyond identification.

(4) Payment on valid pari-mutuel tickets shall be made only if presented and surrendered to the association where the wager was made within one (1) year following the running of the race on which the wager was made. Failure to present any such ticket within one (1) year shall constitute a waiver of the right to receive payment thereon.

(5) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as posted on the infield results board and declared "official" by the stewards. A subsequent change in the order of finish or award of purse money that may result from a subsequent ruling by the steward or authority, shall not affect the pari-mutuel payoff.

(6) The association shall be responsible for the correctness of all payoff prices posted as "official" on the infield results board. If an error is made in posting the payoff figures on the public board, and ascertained before any tickets are cashed thereon, the posting error shall be corrected, accompanied by a public address announcement, and only the correct amounts shall be used in the payoff, irrespective of the initial error on the public board.

(7) Prior to posting payoffs, the pari-mutuel manager shall require each of the computer printout sheets or calculating sheets of the race to be proven by the computer or calculator and the winners verified. Such proof shall show the amounts for authority, breakage, and payoffs, which added together shall equal the total pool. All pay slips shall be checked with computer printout sheets or calculating sheets as to winners and prices before being issued to cashiers, and all board prices shall be rechecked with the computer printout sheet or calculator before released to the public.

(8) If the recapitulation of the sales registered by each ticket issuing machine subsequently proves that the actual amount in the pool, or pools, is less than the amount used in calculating the payoff, the deficiency shall be deposited in the pool or pools by the association. If the recapitulation of sales prove that the actual amount in the pool or pools, is greater than the amount used in calculating the payoff due to a mechanical error of the totalizator, the error resulting in underpayment to the public, then the aggregate of the underpayments shall be paid into the corresponding pool of the next race or races, in an amount as may be determined by the state steward and the pari-mutuel manager. If an error should occur in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day. Overpayments and underpayments subsequently discovered upon recapitulation after the close of a meeting may be adjusted, and any underpayment resulting from the final adjustment shall be paid to the Department of Revenue.

Section 12. Betting Interests Involving more than One (1) Horse. If two (2) or more horses entered for the same race are determined by the authority to have common ties through ownership and are joined by the authority as a "mutuel entry," the mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. If the number of horses competing in a race exceeds

~~the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator, together with horses of higher numbers, shall be grouped in the "mutuel field" as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.~~

~~Section 13. Emergency Situation. If any emergency arises in connection with the operation of the pari-mutuel department not provided for by this administrative regulation, the pari-mutuel manager shall make an immediate decision and shall by the quickest means possible notify the state steward and render a full report to the authority.~~]

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary
APPROVED BY AGENCY: July 20, 2010
FILED WITH LRC: July 20, 2010 at 2 p.m.
CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, May 10, 2011)

810 KAR 1:120. Exotic wagering.

RELATES TO: KRS 230.210-230.375, 230.990
STATUTORY AUTHORITY: KRS 230.215, 230.240, 230.260, 230.280, 230.290, 230.300, 230.310, 230.320, 230.361, 230.370
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which thoroughbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the procedures and regulations governing exotic wagering under KRS Chapter 230 and 810 KAR Chapter 1.

Section 1. All Pari-mutuel Wagers on an Historical Horse Race Are Exotic Wagers. All pari-mutuel wagers other than win, place, or show wagers on a live horse race are exotic wagers.

Section 2. Exotic Wagers to Be Approved by Commission. (1) An association shall not offer an exotic wager on any live or historical horse race without the prior written approval of the commission.

(2) An association making a request to offer an exotic wager on a live or historical horse race may make an oral presentation to the commission regarding the wager prior to the commission deciding on the request.

(a) The presentation shall be made by the association during a meeting of the commission.

(b) The presentation shall be limited to the information contained in the written request and any supplemental information relevant to the commission's determination of the suitability of the wager.

(c) The commission may require an association to clarify or otherwise respond to questions concerning the written request as a condition to approval of the exotic wager.

(3) The commission may request additional information from an association regarding the exotic wager if the additional information would assist the commission in deciding whether to approve it.

(4) In reviewing a written request for an exotic wager, the commission may consider any information, data, reports, findings, or other factors available which it considers important or relevant to its determination of whether the wager should be approved.

(5) The commission or its designee shall review and test the exotic wager and shall give its approval if it is satisfied that:

(a) The wager does not adversely affect the safety or integrity of horse racing or pari-mutuel wagering in the Commonwealth; and

(b) The wager complies with KRS Chapter 230 and **810 KAR Chapter 1[**~~these administrative regulations~~**]**.

(6) **The commission shall notify the association if it determines that the criteria set forth in subsection (5) of this section are no longer being met and it intends to withdraw approval of a particular exotic wager.[**~~The commission shall have the right to withdraw the approval of any exotic wager if it determines that the criteria set forth in subsection (5) of this section are no longer being met.~~**]**

(7) An association shall not implement any change or modification to the practices, procedures, or representations upon which the approval of the exotic wager was based without the prior written approval of the commission.

Section 3. Exotic Wagers on a Live Horse Race. (1) Except as set forth in subsection (2) of this section, an association shall submit a written request to the commission for permission to offer any exotic wager on a live horse race, which shall include a detailed description of the rules that apply to the wager and the method of calculating payouts.

(2) If the rules have not been modified since the wager was approved by the commission, an association shall not be required to seek the commission's approval to offer the following previously approved exotic wagers on live horse races: Exacta, Perfecta, Quinella, Trifecta, Superfecta, Double Perfecta, Big Q, Twin Trifecta, Daily Double, Super High 5, Pick-3, Pick-4, and Pick-6.

Section 4. Exotic Wagers on an Historical Horse Race. (1) An association shall submit a written request to the commission for permission to offer any exotic wager on an historical horse race, which shall include:

(a) The types, number, and denominations of pari-mutuel wagers to be offered;

(b) A detailed description of the rules that apply to the pari-mutuel wager and the method of calculating payouts, including how money will be allocated to the seed pool;

(c) The days and hours of operation during which wagering on historical horse races will be offered;

(d) A detailed description of the proposed designated area and the **terminal or terminals[**~~terminal(s)~~**]** on which the pari-mutuel wagers **will[**~~shall~~**]** be made, including an architect's rendering of the proposed designated area which describes the size, construction, layout, capacity, number of terminals, **and** location of surveillance and other security equipment, and at least one (1) photograph of the designated area when construction is completed;

(e) The practices and procedures that will ensure the security, safety, and comfort of patrons in the designated area;

(f) The manufacturer, make, and model of the terminal, including a copy of all literature supplied by the manufacturer of the terminal;

(g) The maintenance and repair procedures that will ensure the integrity of the terminals;

(h) A complete list of individuals who are authorized to examine and repair the terminals for any reason; and

(i) A memorandum outlining the terms of the agreement between the association and either the Kentucky Horsemen's Benevolent and Protective Association or the Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders referenced in Section 6(2) of this administrative regulation.

(2)(a) Except as set forth in paragraph (b) of this subsection, each association that is approved by the commission to offer exotic wagering on an historical horse race shall request, in any application submitted for a license, to conduct live horse racing pursuant to KRS 230.300 and 810 KAR 1:037**:[**~~,~~**]**

1. No less than 100 percent of the number of racing days initially requested by the association in its application to conduct thoroughbred racing for the 2010 racing year; and

2. No less than 100 percent of the number of races initially requested by the association in its application to conduct thoroughbred racing for the 2010 racing year.

(b) An association may apply for less than 100 percent of the number of racing days initially applied for by the association in its application to conduct thoroughbred racing for 2010, or the number of races initially applied for by the association in its application to

conduct thoroughbred racing for 2010, if written approval is obtained from the commission, and either the Kentucky Horsemen's Benevolent and Protective Association or the Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders, as appropriate.

Section 5. Terminals Used for Wagering on an Historical Horse Race. (1) Wagering on historical horse races shall be conducted only on terminals approved by the commission **as set forth in Sections 2(5) and 5(2) of this administrative regulation**. The commission shall not require any particular make of terminal.

(2)(a) The commission shall require testing of each terminal used for wagering on historical horse races by an independent testing laboratory to ensure its integrity and proper working order.

(b) The independent testing laboratory shall be chosen by the commission and the expense of the testing shall be paid by the association offering the wagering on historical horse races.

(3) Each terminal for wagering on an historical horse race shall display odds or pool amounts that the patron will receive for a winning wager on each pari-mutuel wagering pool.

Section 6. Takeout. (1) Each association conducting exotic wagering on historical horse races shall deduct a takeout, which shall not exceed the percentages set forth in KRS 230.3615.

(2)(a) Each association shall enter into an agreement with either the Kentucky Horsemen's Benevolent and Protective Association or the Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders, as appropriate, establishing the allocation of the takeout on all exotic wagers on historical horse races offered by the association. The agreement shall apply to all exotic wagers on historical horse races offered, or to be offered, by the association during the term of the agreement.

(b) The agreement shall include provisions allocating a percentage of the takeout to purses on live races run by the association.

(c) Each association shall provide a memorandum outlining the terms of the agreement to the commission.

Section 7. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary
APPROVED BY AGENCY: July 20, 2010
FILED WITH LRC: July 20, 2010 at 2 p.m.
CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, May 10, 2011)

811 KAR 1:005. Definitions.

RELATES TO: KRS Chapter 230 [~~230.210, 230.215, 230.260(1)~~]
STATUTORY AUTHORITY: KRS 230.215, **230.225(5)[**~~230.225(7)~~**]**, 230.260, **230.361(1),** 230.370**[**~~230.215(2), 230.260(3)~~**]**
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which standardbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating mutuel wagering on horse races under the pari-mutuel system of wagering. [~~and 230.260(3) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky.~~] This administrative regulation defines the terms used in 811 KAR[~~,~~] Chapter 1.

Section 1. Definitions. (1) "Added money" means the amount of money, exclusive of trophy, added into a stakes by an association, a sponsor, a state-bred program, or other fund, and which is in addition to those monies gathered by nomination, entry, sustaining and other fees paid by the horsemen.

(2) "Age" means the number of years since a horse was foaled, reckoned as if the horse was foaled in January 1 of the year in which the horse was foaled.

(3) "Also eligible" means:

(a) An eligible horse, properly entered, which is not drawn for inclusion in a race, but which becomes eligible according to preference or lot if another horse is scratched prior to the scratch time deadline; or

(b) The next preferred nonqualifier for the finals, or consolation from a set of elimination trials, which becomes eligible **if[**~~in the event~~**]** a finalist is scratched by the judges for a rule violation or is otherwise eligible if written race conditions permit.

(4) "Appeal" means a request for the commission [~~Authority~~] to investigate, consider, and review any decision or ruling of a judge or official of a meeting to deal with placings, penalties, interpretations of the rules, or other questions dealing with the conduct of a race.

(5) "ARCI" means the Association of Racing Commissioners International.

(6) "Arrears" means all sums due by a licensee as reflected by his or her account with the horseman's bookkeeper, including subscriptions, driver fees, forfeitures, and any default incident to 811 KAR Chapter 1.

(7) "Association" is defined by KRS 230.210(1).

(8) **[**~~"Authority" is defined by KRS 230.210(2).~~**]**

~~(9)~~**]** "Bleeder" means a horse known to have bled internally or from its nostrils during a workout or race.

(9)[~~(10)~~**]** "Bleeder list" means a tabulation of all bleeders to be maintained by the commission[~~Authority~~].

(10)[~~(11)~~**]** "Breakage" means the net pool minus payout.

(11)[~~(12)~~**]** "Breeder" means the owner of the dam of a horse **when[**~~at the time~~**]** the horse was conceived.

(12)[~~(13)~~**]** "Calendar days" means consecutive days counted irrespective of number of racing days.

(13)[~~(14)~~**]** "Carryover" means nondistributed pool monies which are retained and added to a corresponding pool in accordance with 811 KAR Chapter 1.

(14)[~~(15)~~**]**[~~(14)~~] "Claiming race" means a race in which ownership of a horse participating in the race may be transferred in conformity with **811 KAR Chapter 1[**~~these administrative regulations~~**][**~~811 KAR 1:035~~**]**.

(15)[~~(16)~~**]**[~~(15)~~] "Classified race" means a race in which entries are selected by the racing secretary on the basis of ability or past performance.

(16)[~~(17)~~**]**[~~(16)~~] "Coggins test" means a medical procedure used to determine if a horse is positive for Equine Infectious Anemia.

(17)[~~(18)~~**]** "Commission" means**:**

(a) The Kentucky Horse Racing Commission (formerly known as the Kentucky Horse Racing Authority and defined in KRS 230.210(2)) **if[**~~when~~**]** used in the context of the administrative agency governing horse racing and pari-mutuel wagering**; and**

(b) If[~~, When~~**]** used in the context of pari-mutuel wagering, **[**~~it means~~**]** the amount an association is authorized to withhold form a pari-mutuel wager pursuant to KRS 230.750.

(18)[~~(19)~~**]**[~~(17)~~] "Conditioned race" means an overnight race in which eligibility is determined according to specified conditions, which may include the following:

(a) Age;
(b) Sex;
(c) Earnings;
(d) Number of starts; or
(e) Positions of finishes.

(19)[~~(20)~~**]**[~~(18)~~] "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

(20)[~~(21)~~**]**[~~(19)~~] "Coupled entry" means two (2) or more horses

in a race that are treated as a single betting interest for pari-mutuel wagering purposes [~~(also see "entry")~~].

(21)[~~(22)~~][~~(20)~~] "Dash"[~~, and in which~~] means a race in a single trial or in a series of two (2) or three (3) races governed by one (1) entry fee for the series, in which a horse **starts[**~~shall start~~**]** in all dashes with positions drawn for each dash and the number of purse distributions or payouts awarded **does[**~~shall not~~**]** exceed the number of starters in the dash.

(22)[~~(23)~~][~~(21)~~] "Day" means a twenty-four (24) hour period beginning at 12:01 a.m. and ending at midnight [~~(also known as a calendar day)~~].

(23)[~~(24)~~][~~(22)~~] "Dead heat" means a finish of a race in which the noses of two (2) or more horses reach the finish line at the same time.

(24)[~~(25)~~][~~(23)~~] "Declaration" means the naming of a particular horse as a starter in a particular race.

(25)[~~(26)~~**]** "Designated area" means any enclosed area that the commission has approved for the location of terminals used for wagering on an historical horse race.

(26)[~~(27)~~][~~(24)~~] "Disqualification" means that [~~a~~]:

(a) An individual **is not** [~~Person~~]**[**~~shall not be~~**]** allowed to start or drive a horse in a race; or

(b) A horse **is not[**~~shall not be~~**]** allowed to start in a race.

(27)[~~(28)~~][~~(25)~~] "Draw" means the process of assigning post positions and the process of selecting horses**[**~~in a manner to ensure compliance with the requirements governing racing~~**]**.

(28)[~~(29)~~][~~(26)~~] "Driver" means a person who is licensed to drive a horse in a race.

(29)[~~(30)~~][~~(27)~~] "Early closing race" means a race for a definite amount of money in which entries close at least six (6) weeks prior to the race.

(30)[~~(31)~~][~~(28)~~] "Electronic ability" means a computer-generated eligibility certificate that records a horse's racing statistics.

(31)[~~(32)~~][~~(29)~~] "Elimination heat" means an individual heat of a race in which the contestants **[**~~shall~~**]** qualify for a final heat.

(32)[~~(33)~~][~~(30)~~] "Entry" means the act of nominating a horse for a race.

(33)[~~(34)~~][~~(31)~~] "Exhibition race" means a race on which no pari-mutuel wagering is permitted.

(34)[~~(35)~~**]** "Exotic wager" means any pari-mutuel wager placed on a live or historical horse race other than a win, place, or show wager placed on a live horse race.

(35)[~~(36)~~][~~(32)~~] "Extended pari-mutuel meeting" means a meeting or series of **meetings[**~~meeting~~**]**, at which no agriculture fair is in progress, with an annual total of more than six (6) days duration and during[~~in~~] which pari-mutuel wagering is permitted.

(36)[~~(37)~~][~~(33)~~] "Field" or "mutuel field" means a single betting interest involving more than one (1) horse which is not a mutuel entry [~~formed when the number of horses in a race exceeds the numbering capacity of the totalizer, and the highest numbered horse within the numbering capacity of the totalizer and horses of a higher number are grouped in the mutuel field~~].

(37)[~~(38)~~][~~(34)~~] "Forfeit" means money due from a licensee because of error, fault, neglect of duty, breach of contract, or a penalty imposed by the judges or the commission[~~Authority~~].

(38)[~~(39)~~**]** "Futurity" means a stake in which the dam of the competing animal is nominated either when in foal or during the year of foaling.

(39)[~~(40)~~][~~(35)~~] "Handicap" means a race in which allowances are made according to a horse's:

(a) Age;

(b) Sex;

(c) Claiming price; or

(d) Performance.

(40)[~~(41)~~][~~(36)~~] "Handle" means the aggregate of all pari-mutuel pools, excluding refundable wagers.

(41)[~~(42)~~**]** "Historical horse race" means any horse race that**:**

(a) Was previously run at a licensed pari-mutuel facility located in the United States**;**

(b)[~~and that~~**]** Concluded with official results**; and**

(c)[~~. An historical horse race must have~~**]** Concluded without scratches, disqualifications, or dead-heat finishes.

(42)[~~(43)~~][~~(37)~~] "Horse" means any equine (including and designated as a mare, filly, stallion, colt, ridgeling, or gelding) registered for racing.

(43)[~~(44)~~][~~(38)~~] "In harness" means that **[**~~that~~**]** the performance **will[**~~shall~~**]** be to a sulky.

(44)[~~(45)~~**]** "Initial seed pool" means a nonrefundable pool of money funded by an association in an amount sufficient to ensure that a patron will be paid the minimum amount required on a winning wager on an historical horse race.

(45)[~~(46)~~][~~(39)~~] "Inquiry" means an investigation by the judges of a contest prior to declaring the result of the contest official.

(46)[~~(47)~~**]** "Judge" [~~(40) Judges~~] means a duly appointed racing official [~~officials,~~] with powers and duties specified in 811 KAR 1:015[~~,~~] serving at a current meeting in the[~~this~~] Commonwealth.

(47)[~~(48)~~][~~(41)~~] "Late closing race" means a race for a fixed amount of money in which entries close less than [~~that~~] six (6) weeks but not more than three (3) days before the race is to be contested.

(48)[~~(49)~~**]** "Licensed premises" means the location and physical plant described in response to question P of the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in 2010. Licensed premises may also include real property of an association, if the association receives approval from the commission for a new location at which live racing will be conducted.

(49)[~~(50)~~][~~(42)~~] "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative that has been duly issued a currently valid license to participate in racing in the Commonwealth[~~, licensed to conduct or participate in harness racing under the provisions of the Kentucky Revised Statutes~~].

(50)[~~(51)~~][~~(43)~~] "Maiden" means a horse that has never won a heat or race at the gate at which it was entered, and for which a purse is offered.

(51)[~~(52)~~][~~(44)~~] "Maiden race" means a race restricted to maidens.

(52)[~~(53)~~][~~(45)~~] "Match race" means a race between two (2) [~~or more~~] horses under conditions agreed upon between the contestants.

(53)[~~(54)~~][~~(46)~~] "Matinee race" means a race in which no entrance fee is charged and in which the payouts, if any, are not money.

(54)[~~(55)~~**]** "Meeting" means the entire period of consecutive days, exclusive of dark days, granted by the commission to a licensed association for the conduct of live horse racing. A meeting shall begin at 10 a.m. of the first racing day and extend through a period ending one (1) hour after the last scheduled race of the last day.

(55)[~~(56)~~**]** "Minus pool" means a pari-mutuel pool in which the amount of money to be distributed on winning wagers exceeds the amount of money contained in [~~(47) "Minus pool" means the amount of money to be distributed on winning wagers exceeds the amount of money comprising~~] the net pool.

(56)[~~(57)~~][~~(48)~~] "Month" means a calendar month.

(57)[~~(58)~~**]**[~~(49)~~] "Net pool" means the total amount wagered less refundable wagers and takeout [~~amount of gross ticket sales less refundable wagers and statutory commissions and taxes~~].

(58)[~~(59)~~**]**[~~(50)~~] "Nomination" means the naming of a horse to a certain race or series of races, generally accompanied by payment of a prescribed fee.

(59)[~~(60)~~**]**[~~(51)~~] "Objection" means a verbal claim of foul in a race lodged by the horses driver, trainer, or owner before the race is declared official.

(60)[~~(61)~~**]**[~~(52)~~] "Official order of finish" means the order of finish of the horses in a contest as declared official by the judges.

(61)[~~(62)~~**]**[~~(53)~~] "Official time" means the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

(62)[~~(63)~~**]**[~~(54)~~] "Optional claiming race" means a contest restricted to horses entered to be claimed for a stated claiming price, and to horses which have started previously for that claiming price or less.

(63)[~~(64)~~**]**[~~(55)~~] "Overnight race" means a contest for which entries close at a time set by the commission [~~Authority~~].

(64)[~~(65)~~**]** "Pari-mutuel wagering", "mutuel wagering", or "pari-mutuel system of wagering" each means a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one or more designated wagering pools and the net pool is returned to the winning patrons.

(65)[~~(66)~~**]** "Patron" means an individual present at a track or a simulcast facility who observes or wagers on a live or historical horse race.

(66)[~~(67)~~**]** "Payout" means the amount of the net pool payable to an individual patron on his or her winning wager.[~~(56) "Pari-mutuel wagering" means a systems of wagering in which those persons who wager on horses that finish in specified positions share the total amount wagered, minus deductions permitted by law.~~]

(67)[~~(68)~~**]**[~~(57) "Payoff" or "payout" means the amount of money payable to winning wagers.~~

~~(58)~~] "Post position" means the preassigned position from which a horse will leave the starting gate.

(68)[~~(69)~~**]**[~~(59)~~] "Post time" means the scheduled starting time for a race.

(69)[~~(70)~~**]**[~~(60)~~] "Protest" means a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing any act of an owner, trainer, driver, or official prohibited by rules, which, if true, **would[**~~shall~~**]** exclude that horse or driver from racing.

(70)[~~(71)~~**]**[~~(61)~~] "Purse" means the total cash awarded as a prize in a race.

(71)[~~(72)~~**]** "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight **in[**~~on~~**]** which live racing is conducted by an association.

(72)[~~(73)~~**]** "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pools.

(73)[~~(74)~~**]**[~~(62)~~] "Scratch" means the act of withdrawing an entered horse from a race after the closing of entries.

(74)[~~(75)~~**]**[~~(63)~~] "Scratch time" means the deadline set for withdrawal of entries from a scheduled race.

(75)[~~(76)~~**]** "Seed pool" means a pool of money funded by patrons wagering on an historical horse race that is used to ensure that all patrons are paid the minimum payout on winning wagers.

(76)[~~(77)~~**]**[~~(64)~~] "Simulcasting" is defined by KRS 230.210(11).

(77)[~~(78)~~**]**[~~(65)~~] "Single price pool" means an equal distribution of profit to winning betting interests or winning betting combinations through a single payout price.

(78)[~~(79)~~**]** "Specimen" means a sample of blood, urine, or other biologic sample taken or drawn from a horse for chemical testing.

(79)[~~(80)~~**]**[~~(66)~~] "Stable name" means a name used other than the actual legal name of an owner or lessee and registered with the United States Trotting Association.

(80)[~~(81)~~**]**[~~(67)~~] "Stake" means a race which will be contested in a year subsequent to its closing in which the money given by the association conducting the race is added to the money contributed by the nominators, all of which except deductions for breeders or nominator's awards belongs to winner or winners, and in which, except as provided in 811 KAR 1:040, Section 6, all of the money contributed by the nominators belongs to the winner or winners.

(81)[~~(82)~~**]**[~~(68)~~] "Starter" means a horse which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

(82)[~~(83)~~**]**[~~(69)~~] "Sulky" means a dual-wheel racing vehicle with dual shafts not exceeding the height of the horse's withers.

(83)[~~(84)~~**]**[~~(70)~~] "Takeout" means the total amount of money, excluding breakage and any amounts allocated to a seed pool, withheld from each pari-mutuel pool, as authorized by KRS 230.750 and [~~Chapter 230 or~~] 811 KAR Chapter 1

(84)[~~(85)~~**]** "Terminal" means any self-service totalizator machine or other mechanical equipment used by a patron to place a pari-mutuel wager on a live or historical horse race.

(85)[~~(86)~~**]** "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers, calculates the odds and prices of **the[**~~such~~**]** wagers, and records, displays, and stores pari-mutuel wagering information.

(86)[~~(87)~~**]**[~~(71) "Totalizator" means the system used for recording, calculating, and disseminating information about ticket sales, wagers odds, and payoff prices to patrons at a pari-mutuel wagering facility.~~

~~(72)~~] "Touting" means the act of soliciting anything of value in exchange for information regarding the outcome of a horse race on which wagers are made at a wagering facility under the jurisdiction of the commission[~~Authority~~].

(87)[~~(88)~~**]**[~~(73)~~] "USTA" means the United States Trotting Association.

(88)[~~(89)~~**]**[~~(74)~~] "Walkover" means a race in which only one (1) horse starts or in which all the starters are owned by the same interest.

Section 2. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary
APPROVED BY AGENCY: July 20, 2010
FILED WITH LRC: July 20, 2010 at 2 p.m.
CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, May 10, 2011)

811 KAR 1:125. Pari-mutuel wagering[~~rules~~].

RELATES TO: KRS **138.510-138.550,** 230.210-230.375, 230.990[~~230.210, 230.215, 230.260(1), (2), 230.361(1), (2), (3), 230.990~~]

STATUTORY AUTHORITY: KRS 230.215, 230.240, 230.260, 230.280, 230.290, 230.300, 230.310, 230.320, 230.361, 230.370[~~230.260(3), (6), 230.361(1), (2)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which standardbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the authority to promulgate administrative regulations governing and regulating mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the requirements for the operation of pari-mutuel wagering under KRS Chapter 230 and 811 KAR Chapter 1.[~~KRS 230.361(1) requires the commission to promulgate administrative regulations governing mutuel wagering under the pari-mutuel system of wagering. This administrative regulation establishes the requirement for pari-mutuel wagering at race meetings.~~]

Section 1. Pari-Mutuel System of Wagering Required. (1) The only wagering permitted on a live or historical horse race shall be under the pari-mutuel system of wagering. All systems of wagering other than pari-mutuel shall be prohibited. Any person participating or attempting to participate in prohibited wagering shall be ejected and excluded from association grounds.

(2) Wagering conducted in conformity with KRS Chapter 230 and 811 KAR Chapter 1 is pari-mutuel.

Section 2. Totalizator or Other Approved Equipment Required. (1) Pari-mutuel wagering on live and historical horse races shall only be conducted through the use of a totalizator or other similar mechanical equipment approved by the commission pursuant to KRS 230.361. **[**~~The commission shall not require any particular make of equipment.~~**]**

(2) The totalizator or other mechanical equipment shall be available for testing under the supervision of the commission upon request **by the commission** to ensure its proper working order.

Section 3. Wagering on an Historical Horse Race Authorized.

(1) Wagering on an historical horse race is hereby authorized and may be conducted in accordance with KRS Chapter 230 and 811 KAR Chapter 1.

(2) Wagering on an historical horse race shall only be conducted by:

(a) An association licensed to conduct a live horse race meet; or (b)Two (2) or more associations licensed to conduct a live horse race meet**:**

1. Who form a joint venture**; or**

2.[~~or otherwise~~**]** Pursuant to an agreement between them.

(3) Wagering on an historical horse race shall only be permitted in a designated area on the licensed premises of an association licensed to conduct a live horse race meeting. Wagering on historical horse racing shall not be offered in any other location.

(4) An association may conduct wagering on historical horse races of any horse breed regardless of the type of breed that primarily races in live meets conducted by the association. An association may conduct wagering on historical races on any days and hours approved by the commission, and shall not be limited to times during which the association is conducting a live horse race meeting.

(5) Any wager placed on an historical horse race is an exotic wager.

(6) Before offering wagering on an historical horse race, an association shall first obtain the commission's written approval of all wagers offered as set forth in 811 KAR 1:250.

(7) All wagering on an historical horse race shall incorporate the following elements:

(a) A patron may only wager on an historical horse race on a terminal approved by the commission;

(b) An association shall at all times maintain at least two (2) terminals offering each type of exotic wager on an historical horse race;

(c) Once a patron deposits the wagered amount in the terminal offering wagering on an historical horse race, an historical horse race shall be chosen at random;

(d) Prior to the patron making his or her wager selections, the terminal shall not display any information that would allow the patron to identify the historical race on which he or she is wagering, including the location of the race, the date on which the race was run, the names of the horses in the race, or the names of the jockeys that rode the horses in the race;

(e) The terminal shall make available true and accurate past performance information on the historical horse race to the patron prior to making his or her wager selections. The information shall be current as of the day the historical horse race was actually run. The information provided to the patron shall be displayed on the terminal in data or graphical form; and

(f) After a patron finalizes his or her wager selections, the terminal shall display a video replay of the race, or a portion thereof, and the official results of the race. The identity of the race shall be revealed to the patron after the patron has placed his or her wager.

Section 4. Payouts Only Out of Pari-Mutuel Pools: Seed Pools Required. (1)(a) A wager on an historical horse race, less deductions permitted by KRS Chapter 230 or **811 KAR Chapter 1[**~~these administrative regulations~~**]**, shall be placed in pari-mutuel pools approved by the commission.

(b) A payout to a winning patron shall be paid from money wagered by patrons and shall not constitute a wager against the association.

(c) An association conducting wagering on an historical horse race shall not conduct wagering in such a manner that patrons are wagering against the association, or in such a manner that the amount retained by the association as a commission is dependent upon the outcome of any particular race or the success of any particular wager.

(2) An association shall only pay a winning wager on an historical horse race out of the applicable pari-mutuel pool and shall not pay a winning wager out of the association's funds. **[**~~In no event shall~~**]** Payment of a winning wager **shall not** exceed the amount available in the applicable pari-mutuel pool.

(3) An association offering wagering on an historical horse race shall operate seed pools in a manner and method approved by the commission **as set forth in 811 KAR 1:250**. For each wager made, an association may assign a percentage of the wager to seed pools. The seed pools shall be maintained and funded so that the amount available at any given time is sufficient to ensure that a patron will be paid the minimum amount required on a winning wager.

(4) An association shall provide the funding for the initial seed pool for each type of exotic wager. The funding for the initial seed pool shall be nonrefundable and in an amount sufficient to ensure that a patron will be paid the minimum amount required on a winning wager.

Section 5. Location of Terminals Used for Wagering on an Historical Horse Race. (1) Terminals offering wagering on historical horse races shall be located within designated areas which have the prior written approval of the commission. Designated areas shall be established in such a way as to control access by the general public and prevent entry by any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers **[**~~on an historical horse race~~**]**.

(2) Each association shall **monitor[**~~be responsible for monitoring~~**]** persons entering and leaving the designated areas and shall **prevent[**~~be responsible for preventing~~**]** access to any patron who is under eighteen (18) years of age or is otherwise not permitted to place wagers on historical horse races.

(3) Each association shall provide terminals that are accessible to handicapped patrons.

Section 6. Records to be Maintained. (1) Each association and each simulcast facility authorized under KRS 230.380 shall maintain complete records of all pari-mutuel wagering transactions on live and historical horse races, including the amounts wagered at each betting window, self-service totalizator, mobile pari-mutuel teller, and terminal.

(2) A copy of the wagering records shall be retained and safeguarded for a period of not less than two (2) years and shall not be destroyed without the prior written permission of the commission.

Section 7. Equipment. (1) The association and the totalizator provider shall install a primary and secondary device, which activate the stop betting function of the totalizator system. The presiding judge, or his or her designee, shall use the primary device to stop wagering at the start of **a live horse race. If[**~~the race. In the event that~~**]** wagering is not stopped by the primary device at the start of the race, the totalizator operator shall stop wagering using the secondary device. The secondary device shall be installed in the totalizator room and shall only be used by the totalizator operator.

(2) If there is a complete breakdown of the totalizator or mechanical equipment during the wagering on a live horse race, the wagering on that race shall be declared closed. If the totalizator remains capable of computing payouts, the payouts for that race shall be computed based on the amounts wagered prior to the breakdown. If the totalizator is incapable of computing payouts, then refunds shall be issued for all amounts wagered on that race.

(3) If there is a complete breakdown of a terminal offering wagering on an historical horse race, the association offering the wager shall make a full refund of the patron's balance on the terminal at the time of the breakdown.

Section 8. Entries in a Live Horse Race. (1) The presiding judge shall timely advise an association's pari-mutuel manager, prior to the beginning of wagering on each **live horse** race, of the horses that will compete in the race.

(2) If two (2) or more horses entered for the same live horse race are determined by the commission to have common ties through ownership or training**,** they may be joined by the commission as a mutuel entry. The mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. If the number of horses competing in a live horse race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator

together with horses of higher numbers, shall be grouped in the mutuel field as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.

(3) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race that has been scratched or withdrawn before the horse has become a starter, unless the horse is part of a mutuel entry, and one (1) or more of the entry starts.

Section 9. Sale of Pari-Mutuel Tickets on Live Horse Races. (1) The following types of pari-mutuel wagering shall be permitted on a live horse race at all licensed associations and simulcast facilities:

(a) Normal win, place, and show wagers on each race;

(b) Any exotic wager previously approved by the commission; and

(c) Any new exotic wager approved in writing by the commission **pursuant to 811 KAR 1:250**.

(2) Pari-mutuel tickets on live horse races shall not be sold except by a licensed association or a simulcast facility authorized by KRS 230.380.

(3) Pari-mutuel tickets on a live horse race shall only be sold at regular ticket windows, self-service totalizator machines, by mobile pari-mutuel tellers with hand-held totalizator devices, or by any other method approved in writing by the commission prior to being offered to the public. At least one (1) regular ticket window shall be made accessible to handicapped patrons.

(4)(a) Pari-mutuel stored value cards or cash vouchers may be offered by an association. The dollar amount on the stored value card or cash voucher may be redeemed at any time at any regular ticket window or used to fund additional wagers.

(b) Cash vouchers shall be valid for one (1) year after the date of issuance. Failure to present any cash voucher for redemption within one (1) year of issuance shall constitute a waiver of the right to receive payment **on the voucher[**~~thereon~~**]**.

(5) **A[**~~No~~**]** pari-mutuel wager shall **not** be made on a race after the totalizator has been locked for that race.

(6) Any claim by a patron that he or she has been issued a pari-mutuel ticket other than that which was requested shall be made before the patron has left the ticket window or before the mobile teller has initiated a transaction with another patron. **A claim for an incorrect ticket shall not[**~~No claims for incorrect tickets will~~**]** be honored after the totalizator has been locked.

Section 10. Payment on Pari-Mutuel Tickets on Live Horse Races. (1) At the end of each **live horse** race, the judges shall advise the manager of the pari-mutuel department by the use of the totalizator equipment or by telephone of the official placement of the horses, and **[**~~no~~**]** payouts shall **not** be made until the receipt of the notice.

(2) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as declared "official" by the judges. A subsequent change in the order of finish or award of purse money that may result from a subsequent ruling by the judges or commission shall not affect the pari-mutuel payout.

(3) Each association shall deduct from each pari-mutuel pool a commission, not exceeding the commission provided by KRS 230.750. The remainder of the pool after the deduction of the commission shall be the net pool for distribution as payouts to ticket holders.

(4) Payment on valid pari-mutuel tickets shall be made only if presented and surrendered within one (1) year following the running of the live horse race on which the wager was made. Failure to present **a[**~~any such~~**]** ticket within one (1) year shall constitute a waiver of the right to receive payment **on the ticket[**~~thereon~~**]**.

(5) The association shall be responsible for the correctness of all payout prices posted as "official." If an error is made in posting the payout figures, and ascertained before any tickets are cashed **[**~~thereon~~**]**, the posting error shall be corrected, accompanied by a public address announcement, and only the correct amounts shall be used in the payout, irrespective of the initial error.

(6) A mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall not be accepted for payment.

(7) An association shall establish a written procedure for granting patrons an opportunity to file a claim on a lost pari-mutuel ticket and provide a copy to the commission.

(8) Prior to posting payouts, the association's pari-mutuel manager shall require the verification of the winning runners and prices prior to posting official results.

(9)(a) If an error is made in calculating the payout on a winning wager, resulting in overpayment, the association shall be responsible for the amount between the correct payout and the amount paid.

(b) If the error in calculation results in a payout being too low, the amount between the correct payout and the amount paid shall be added to the net pool of the same position in the following race on the same day or, if it is the last race of the day, then it shall be added to the net pool of the same position in the same race on the following day. If an error occurs in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day.

(c) If an error occurs causing underpayment on the last race of the entire racing meeting, the amount of the underpayment shall be paid to the Kentucky Revenue Cabinet.

Section 11. Minimum Wagers and Payouts. (1) The minimum wager to be accepted by any licensed association on a live horse race shall be ten (10) cents. The minimum payout on a one (1) dollar wager on a live horse race shall be one (1) dollar and ten (10) cents, unless a minus pool occurs. If a minus pool occurs, the minimum payout for a one (1) dollar wager shall be one (1) dollar and five (5) cents.

(2) The minimum wager to be accepted by any licensed association on an historical horse race shall be ten (10) cents. The minimum payout on any wager shall not be less than the amount wagered.

Section 12. Minors Prohibited from Wagering. A minor shall not be permitted by any licensed association or simulcast facility to purchase or cash a pari-mutuel ticket.

Section 13. Odds and Payouts Posted. (1) Approximate odds for live horse races, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public at intervals of not more than ninety (90) seconds.

(2) If daily double wagering is conducted on a live horse race, before off-time of the second daily double race, the probable payout for each two (2) dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race shall be posted; except that if a dead heat for first in the first daily double race occurs, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payouts shall not be mandatory, but the association shall make every effort to compute such daily double prices and advise the public by posting or public address announcement as soon as possible and prior to the running of the second daily double race.

(3) For wagering on an historical horse race, approximate odds or payouts for each wagering pool shall be posted on each terminal for viewing by patrons at intervals of no more than ninety (90) seconds.

Section 14. Betting Explanation. (1) Each association shall publish in the daily race program, for each day of live horse racing, a general explanation of pari-mutuel wagering offered on live horse races and an explanation of each type of betting pool offered. The explanation also shall be posted in conspicuous places about the association grounds to adequately inform the public and shall be submitted to the commission prior to publication for approval.

(2) Each association shall post, in conspicuous places in the designated area, a general explanation of pari-mutuel wagering offered on historical horse races and an explanation of each betting pool offered. The explanation shall be submitted to the commission for approval prior to its posting.

Section 15. Prior Approval Required for Number of Live Horse

Races. Each association desiring to conduct more than nine (9) live horse races on a single day shall first apply in writing to the commission and obtain specific approval of the number of live horse races to be offered on a single day.

Section 16. Pools Dependent Upon Entries for Live Horse Races. (1) If horses representing five (5) or fewer betting interests qualify to start in a live horse race, the association may prohibit show wagering on that race. If horses representing four (4) or fewer betting interests qualify to start in a live horse race, the association may prohibit both place and show wagering on that race.

(2) If a horse is scratched by the judges after wagering has commenced or a horse is prevented from running in a live horse race because of failure of a starting-gate door to open properly, and the number of actual starters representing different betting interests is:

(a) Reduced to five (5), the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets; or

(b) Reduced to four (4) or fewer, the association may cancel both place and show wagering on that race and the entire place and show pool shall be refunded upon presentation and surrender of place and show tickets.

Section 17. Emergency Situation. If any emergency arises in connection with the operation of the pari-mutuel department not provided for by this administrative regulation, the pari-mutuel manager shall take immediate corrective action and shall by the quickest means possible notify the presiding judge and render a full report to the commission.

Section 18. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.[~~Section 1. Equipment. (1) Licensees may use vending machines for the sale of pari-mutuel tickets.~~

~~(2) The controls necessary to operate the odds board in the infield, relative to the way the horses finish, (if the finish is being contested, if there is a photo, dead heat, time, or race) shall be located in the judge's stand and controlled only by the presiding judge, or one associate judge designated to do so.~~

~~Section 2. Sale of Pari-mutuel Tickets. (1) Only one (1) method of selling pari-mutuel tickets shall be used for the sale of tickets on individual races during any racing day.~~

~~(2) Unless prior commission approval has been obtained, pari-mutuel tickets shall not be sold except through regular ticket windows.~~

~~(3) Book making or betting other than pari-mutuel betting shall be strictly prohibited.~~

~~(4) A minor shall not be allowed to bet and a mutuel employee shall not sell or pay a wager to a minor.~~

~~(5) All wagering shall stop as soon as the word "go" shall be given by record or by voice of the starter. Vending machines for the sale of pari-mutuel tickets shall be electrically locked by the presiding judge from the judge's stand.~~

~~(6) When the sale of pari-mutuel tickets has closed, it shall remain closed until after the race has finished and has been declared official, unless an objection imposes a delay. If an objection imposes a delay, the sale of pari-mutuel tickets for the next succeeding race may be begun without waiting for the race to be declared official.~~

~~(7) The method of selling pari-mutuel tickets shall be approved by the commission.~~

~~(8) The manager of the pari-mutuel department shall be properly and timely advised by the presiding judge, prior to the beginning of wagering on each race, of the horses that will compete in the race.~~

~~(9) If less than five (5) interests qualify horses to start in a race, the manager of the pari-mutuel department may prohibit show wagering on that race.~~

~~(10) If less than four (4) interests qualify horses to start in a race, the manager may prohibit both place and show wagering on that race.~~

~~(11) If less than three (3) interests qualify horses to start in a race, the manager may prohibit wagering on that race.~~

~~(12) The manager may prohibit win, place, or show wagering on any particular horse or entry in any race. The exclusions shall be clearly indicated on the program or score card or announced and horses excluded shall be numbered to indicate that they are not coupled in the field. Horses once excluded from the betting shall remain excluded during the day or race in which they are scheduled to start.~~

~~(13) If more horses representing separate interests are started in a race than the number of post positions on the infield tote board, all horses in excess of a number of interests one (1) less than the total number of post positions on the infield tote board shall be grouped in the betting as the field.~~

~~(14) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race which has been scratched or withdrawn before the horse has become a starter in the race under the rules, unless the horse is part of an entry, and one (1) or more of the entry starts.~~

~~Section 3. Payments. (1) Payments due on all wagers shall be made in conformity with the well established practice of the pari-mutuel system. The practice shall work in dollars and not in the number of tickets. Money wagering on winning tickets shall be returned in full plus the profits. For a winning mutuel pool, each licensee shall redistribute not less than one (1) dollar and ten (10) ten cents on each one (1) dollar wagered. If there is a minus pool, the minimum payoff of each one (1) dollar wagered shall be one (1) dollar and five (5) cents.~~

~~(2) At the end of each race, the judges shall advise the manager of the pari-mutuel department by the use of the tote equipment or by telephone of the official placement of the horses, and no payoffs shall be made until the receipt of the notice.~~

~~(3) If a horse wins and there is no money wagered on him to win, the win pool shall be apportioned among the holders of the place tickets on that horse, if any, otherwise among holders of the show tickets.~~

~~(4) If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which was placed first or second.~~

~~(5) If no money has been wagered to show on a horse which has placed first, second, or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second, or third in that race.~~

~~(6) If only two (2) horses finish in any one (1) race, the show pool shall be figured the same as the place pool and monies shall be apportioned to the holders of show tickets on the two (2) finishing horses. If only one (1) horse finishes in any one (1) race, all three (3) pools shall be figured separately as straight pools and all the monies shall be awarded to the ticket holders of the finishing horse. If no horse finishes the race, then the entire pool shall be refunded to all ticket holders.~~

~~(7) If two (2) horses finish in a dead heat for first place, the money in the win mutuel pool shall be divided between the two (2) dead-heaters according to their proportionate shares in the pool.~~

~~(8) If two (2) horses finish in a dead heat for second place, the division shall be made as follows: There shall be allotted to the pool of the winner of the race one-half (1/2) of the place pool and the two (2) dead-heaters one-half (1/2) each of the remaining half of the place pool.~~

~~(9) If two (2) horses coupled in the betting as an entry or the field finish first and second, first and third, or second and third, two-thirds (2/3) of the net show pool shall be allotted to the pool of the entry and the balance one-third (1/3) to the other horse.~~

~~(10) If one (1) horse of the entry or the field finishes first or second and the other part of the entry or field finishes in a dead heat for third with another horse, the division of the net show pool shall be as follows: one-half (1/2) of the net show pool shall be allotted to the pool of the entry, one-third (1/3) to the nonentry horse not involved in the dead heat, and one-sixth (1/6) to the nonentry horse finishing in the dead heat.~~

~~(11) If the entry or field horses finish first, second, and third, the entire money in each pool shall go to the entry or field tickets,~~

and no other tickets shall participate.

(12) A mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall not be accepted for payment.

(13) Claims for lost pari-mutuel tickets shall not be considered.

(14) If an error is made in calculation resulting in a price being too high, the association shall lose the amount between the proper price and the one paid. If the error in calculation results in a price being too low, the amount between proper price and price paid shall be added to the net pool of the same position in the following race on the same day or if it is the last race of the day then it shall be added to the net pool of the same position in the same race on the following day. If an error occurs causing underpayment on the last race of the entire racing meeting, the underpayment shall be paid to the Kentucky Revenue Cabinet.

Section 4. Daily Doubles. (1) There shall not be an exchange of daily double tickets after the purchaser has left the sales window.

(2) The daily double shall not be a parlay, and shall not have a connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place, or show pool shown on the totalistor board. All tickets on the daily double shall be calculated in an entirely separate pool. Without prior commission approval, only one (1) daily double shall be permitted during any single program.

(3) All tickets shall be to win (straight) only. Entries and the field shall run as one (1) horse in the daily double. If two (2) or more horses in a race are coupled on the same totalizator ticket, there shall not be refunds, unless all of the horses so coupled are excused before off time.

(4) Selections shall be made of one (1) horse for each of the two (2) races in the daily double by tote program numbers.

(5) If no ticket is sold combining the two (2) winners of the daily double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the daily double and those having tickets including the winner in the second race of the daily double in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold on the winner of the first race of the daily double on any combination, the entire pool shall be apportioned to the holders of tickets on the winner of the second race of the daily double. If no ticket is sold on the winner of the second race of the daily double or any combination, the entire pool shall be apportioned to the holders of tickets on the winner of the first race of the daily double.

(7) If a dead heat to win results in either the first or second race of the daily double, the total pool shall be calculated as a place pool. If there is a dead heat for the winner of the first race of the daily double, the posting of payoff prices shall be made after the winner of the second race of the daily double is official.

(8) If no ticket is sold containing the numbers of either winner on any combination, the pool shall be allotted to those having tickets on horses finishing next to the winners.

(9) If any horse or horses in the first half of the daily double are excused by the judges after the horses have left the paddock for the post, or after the betting on the daily double has been closed, or if any horse or horses in the first half of the daily double are prevented from racing because of failure of the arm or arms of the starting gate to open, the money wagered on any horse or horses excused or prevented from racing shall be deducted from the daily double pool and refunded to the purchaser or purchasers of tickets on the horse or horses excused or prevented from racing.

(10) If a horse is scratched from the second half of the daily double before it becomes a starter in the second half, but after the first half of the daily double has been run, all daily double tickets combining the scratched horse in the second race of the daily double with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second race of the daily double. The total payoff on all tickets combining the winner of the first race of the daily double with the scratched horse in the second race of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(11) The possible payoff prices shall be posted or announced to the public before the start of the last race of the daily double, and as soon as possible after the horses in the race of the last half of the daily double have entered upon the track on the way to the post.

(12) If for any reason the second race of the daily double is cancelled or declared "no race" by the judges after the first daily double race is declared official, then the net daily double pool shall be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.

(13) If a daily double is scheduled to be held, subsections (1) to (12) of this section shall be printed in conspicuous places in the grandstand area and an abbreviated version shall be printed on the day's racing program, and a notice shall be printed on the program as follows: "Retain Your Tickets Until The Result of the Daily Double Has Been Posted."

Section 5. Perfecta Wagering. (1) The perfecta shall be a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(2) The perfecta shall not be a parlay and shall not have a connection with or relation to the win, place, or show betting and shall be calculated as an entirely separate pool.

(3) If no ticket is sold on the winning combination of a perfecta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first. If no ticket is sold on the winning combination of a perfecta pool or tickets selecting the winning horse to finish first, the net pool shall be distributed equally between holders of tickets selecting the second place horse to finish second.

(4) If no ticket is sold that would require distribution of a perfecta pool to a winner pursuant to subsection (3) of this section, the association shall make a complete and full refund of the perfecta pool.

(5) If there is a dead heat between two (2) horses for first place, the net perfecta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combinations. If there is a dead heat between two (2) horses for second place, the perfecta pool shall be figured as a place pool, and the holders of tickets combining the winning horse and the two (2) horses finishing second shall participate in the payoff.

(6) If there is a dead heat for second place, and if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the perfecta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(7) If two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second or first, second, and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 6. Quinella Wagering. (1) The quinella shall be a form of a pari-mutuel wagering consisting of selecting the first two (2) horses to finish, irrespective of their place of finish.

(2) The quinella shall not be a parlay and shall not have a connection with or relations to the win, place, or show betting and shall be calculated as an entirely separate pool.

(3) If there is a dead heat between two (2) horses for first place, the combination shall be the winner of the quinella pool. If there is a dead heat between two (2) horses for second place, the quinella pool shall be figured as a place pool, and the holders of tickets combining the winning horse and the two (2) horses finishing second shall participate in the payoff.

(4) If there is a dead heat for second place, and if no ticket is sold on one (1) of the winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the

net pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses; except, if any tickets combine both horses in the dead heat for place, the net pool shall be calculated and distributed as a win pool to holders of such tickets.

(5) If no ticket is sold on the winning combination of a quinella pool, the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold that would require distribution of a quinella pool to a winner as defined in this section, the association shall make a complete and full refund of the quinella pool.

(7) If a perfecta or quinella is scheduled to be held, each association shall print an abbreviated version of the rules established by this section on the day's racing program.

(8) If two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second, or first, second, and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 7. Double Perfecta Wagering. (1) The double perfecta shall be a form of pari-mutuel wagering in which the bettor selects the two (2) horses that will finish first and second in each of two (2) consecutive races in the exact order as officially posted.

(2) Double perfecta tickets shall be sold only at double perfecta windows and only from automatic double issue machines.

(3) Each bettor purchasing double perfecta tickets shall designate his two (2) selections as the first two (2) horses to finish in that order in the first of two (2) consecutive races.

(4) After the official declaration of the first two (2) horses to finish in the first race of the double perfecta, each bettor holding a ticket combining the first two (2) horses in the exact order of finish shall, prior to the running of the second double perfecta race, exchange the ticket at the double perfecta window and shall select the two (2) horses to finish in the second race of the double perfecta in the exact order as officially posted. Further money shall not be required of the holder of the ticket to make the exchange.

(5) A double perfecta exchange ticket upon the second race shall not be issued except upon the exchange of the double perfecta ticket from the first race pursuant to subsection (4) of this section. The double perfecta pool obtained from the sales of double perfecta tickets upon the first race shall be held and divided among the winning tickets of the double perfecta exchange tickets, subject to the rules established by this section. Double perfecta windows shall be open to make the exchange only after the first race has been declared official.

(6) If a winning double perfecta ticket from the first race is not presented for exchange within the time provided, the bettor shall forfeit all rights to any distribution or refund unless the second half of the double perfecta is cancelled or declared "no race".

(7) If a horse is scratched in the first race of the double perfecta races, all double perfecta tickets on the scratched horse shall be refunded.

(8) If a horse is scratched in the second race of the double perfecta, after the first race of the double perfecta has been declared official, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: the net double perfecta pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winners of the first race of the double perfecta. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the double perfecta. The entire consolation pool (number of eligible tickets times the consolation price) shall be deducted from the net double perfecta pool.

(9) If no double perfecta ticket is sold as a winning combination in the first race of the double perfecta, the double perfecta pool shall be divided among those having tickets including the horse finishing first and those having tickets including the horse finishing second and the distributions shall be calculated and made as a place pool. If that occurs, the double perfecta race shall end and the pool shall be closed for the day.

(10) If no double perfecta exchange ticket is sold on the winning combination, the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner by which a place pool is calculated and distributed.

(11) If a double perfecta exchange ticket combines only one (1) of the two (2) winners and no double perfecta exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(12) If no exchange ticket includes either the first or second horse of the second half of the double perfecta, the entire net pool shall be distributed as a straight pool to all holders of exchange tickets.

(13) If there is a dead heat for place in the first race of the double perfecta races, all double perfecta tickets combining the first horse and either of the place horses shall be eligible for exchange for double perfecta exchange tickets.

(14) If there is a dead heat for place in the second race of the double perfecta, the double perfecta pool shall be divided, calculated, and distributed as a place pool to the holders of double perfecta exchange tickets combining the first horse and either of the place horses. If there is a dead heat to place and there are no tickets sold on one (1) combination, then the other combination having the winning horses shall be declared the winner. If no exchange tickets combine the winning horse with either of the place horses in the dead heat, the double perfecta pool shall be calculated and distributed as a win pool to holders of tickets representing any interest in the net pool.

(15) If for any reason the second of the double perfecta races is cancelled or declared "no race", the pool shall be calculated as a straight pool and shall be distributed among the holders of the tickets combining the first two (2) horses of the first race of the double perfecta otherwise eligible for double perfecta exchange tickets and also distributed to holders of the double perfecta exchange tickets.

(16) If there is a dead heat for the winning horse in either of the two (2) consecutive races for the double perfecta, the calculation of the distribution of the double perfecta pool shall be made in the manner in which any ordinary perfecta pool would be made if there was a dead heat for the win despite the number of horses involved in the dead heat.

(17) The purchase of double perfecta tickets other than through pari-mutuel machines and the sale of double perfecta tickets from one (1) individual to another shall be deemed illegal and shall be prohibited.

Section 8. Big Q Rules. (1) Each operator wishing to conduct Big Q wagering shall first petition the commission for permission to do so.

(2) Each operator shall either print in the daily program or prominently post at all areas where Big Q wagering is conducted the complete rules for Big Q wagering as established by this section.

(a) The Big Q shall consist of selecting the quinella (the first two (2) horses to finish) of each of two (2) consecutive races. Pari-mutuel wagering tickets shall be sold upon the first race of the (2) races only. The division of the pool shall be calculated as in a straight pool, except as provided by this section.

(b) Entries or field horses shall not be allowed to start in any race comprising the Big Q.

(c) Tickets shall be sold only at Big Q windows and only from automatic double-issuing machines.

(d) Each bettor purchasing tickets shall designate his two (2) selections as the first two (2) horses to finish in the first race of the two (2) races.

(e) After the official declaration of the first two (2) horses to finish the first of the Big Q races, each bettor holding a ticket combining the two (2) horses to finish shall, prior to the running of the second race, exchange the winning ticket for a Big Q exchange ticket at the Big Q windows and shall select the first two (2) horses to finish in the second race of the Big Q. Further money shall not be required of the holder of the ticket to make the exchange.

(f) A Big Q exchange ticket upon the second race shall not be issued except upon the surrender of the Big Q ticket from the first race pursuant to paragraph (f) of this subsection. The Big Q pool

~~obtained from the sales of the Big Q tickets upon the first race shall be held and divided among the winning tickets of the Big Q exchange tickets, pursuant to the rules established by this section. Big Q windows shall be open to make the exchange only after the first race has been declared official and the windows shall close at post time at the start of the second race of the Big Q races.~~

~~(g) If a winning Big Q ticket from the first race is not presented for exchange within the time provided, the bettor shall forfeit all rights to any distribution or refund unless the second half of the Big Q is cancelled or declared "no race", or if no exchange ticket includes either the first or second horse of the second half of the Big Q.~~

~~(h) If a horse is scratched in the first race, all Big Q tickets on the scratched horse shall be refunded. If a horse is scratched in the second race, the holders of tickets on the scratched horse shall be entitled to exchange their tickets for another selection. If there is a late scratch, after the exchange windows have closed, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: The net Big Q pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winnings of the first race of the Big Q. The quotient obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the Big Q. The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net Big Q pool.~~

~~(i) If no ticket is sold as a winning combination in the first race of the Big Q, the Big Q pool shall be divided among those having tickets including the horse finishing first or second and the distributions shall be calculated and made as a place pool. If that occurs, the Big Q race shall end and the pool shall be closed for the day.~~

~~(j) If no Big Q exchange ticket is sold on the winning combination, the net pool shall be apportioned equally between those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.~~

~~(k) If a Big Q exchange ticket combines only one (1) of the winners and no Big Q exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.~~

~~(l) If no exchange ticket includes either the first or second horse of the second half of the Big Q, the entire net pool shall be distributed as a straight pool to all holders of exchange tickets and winning combinations of the first half that have not been exchanged.~~

~~(m) If there is a dead heat for place in the first race of the Big Q races, all Big Q tickets combining the first horse and either of the place horses shall be eligible for exchange for Big Q exchange tickets.~~

~~(n) If there is a dead heat for place in the second race of the Big Q races, the pool shall be divided, calculated, and distributed as a place pool to the holders of Big Q exchange tickets combining the first horse and either of the place horses. If there is a dead heat to place and there are no tickets sold on one (1) combination, then the other combination having winning horses shall be declared the winner.~~

~~(o) If no exchange tickets combine the winning horse with either of the place horses in the dead heat, the Big Q pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses, except if any exchange tickets combine both horses in the dead heat for place, the Big Q pool shall be calculated and distributed as a place pool to holders of such tickets.~~

~~(p) If for any reason the first race of the Big Q races is cancelled or declared "no race", a full and complete refund shall be made from the Big Q pool.~~

~~(q) If for any reason, the second of the Big Q races is cancelled or declared "no race", the pool shall be calculated as a straight pool and shall be distributed among the holders of tickets combining the first two (2) horses of the first race of the Big Q otherwise eligible for Big Q exchange tickets and also distributed to holders of the Big Q exchange tickets.~~

~~(r) If there is a dead heat for the winning horses in either of the two (2) consecutive races for the Big Q, the calculation of the distribution of the Big Q pool shall be made in the manner in which any ordinary quinella pool would be made if there was a dead heat for the win despite the number of horses involved in the dead heat.~~

~~(s) If an incorrect exchange ticket is issued during the second half of the Big Q pool, the incorrect exchange ticket shall be turned in to the state auditor prior to the running of the second half. The tickets shall be deducted from both exchange and individual combination totals. The ticket shall be voided and filed with the performance worksheets and a report, including the seller's name and license number, shall be made to the commission of the complete incident.~~

~~Section 9. Trifecta Wagering. (1) The trifecta shall be a contract by the purchaser of a ticket combining three (3) horses in a single race, selecting the three (3) horses that will subsequently finish first, second, and third in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.~~

~~(2) The trifecta shall not be a parlay and shall have no connection with or relation to the win, place, and show betting and shall be calculated as an entirely separate pool.~~

~~(3) Trifecta tickets shall not be sold in less than one (1) dollar denominations.~~

~~(4) If no ticket is sold on the winning combination of a trifecta pool, the net pool shall be distributed to the holders of tickets selecting the win and place finishers in that order. If no ticket is sold combining the win and place finish, the net pool shall be distributed to the holders of tickets selecting the winner.~~

~~(5) If no ticket is sold that requires distribution of the net trifecta pool to a winner pursuant to subsection (4) of this section, the association shall make a full refund of the trifecta pool.~~

~~(6) If there is a dead heat or dead heats, all trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead heated, shall be winning tickets. The payoff shall be calculated as a place pool.~~

~~(7) If there is a scratch in the trifecta, no exchanges shall be made. All tickets which include the scratched horse shall be eliminated from further participation in the trifecta pool and shall be refunded.~~

~~(8) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the trifecta shall race as a single wagering interest for the purpose of trifecta pari-mutuel pool calculations and payouts to the public.~~

~~(9) Trifecta tickets shall be sold only by the licensee through pari-mutuel machines programmed to print all selections on one (1) ticket. Resale of such tickets from one (1) individual to another shall be prohibited and shall be grounds for ejection.~~

~~(10) Each association shall print in heavy type in a conspicuous place in its printed program all the provisions of this section and post printed copies of this section about the track.~~

~~(11) For the purpose of trifecta wagering, the trifecta race shall be drawn to consist of six (6) separate wagering interests.~~

~~(12) Nothing in this section shall preclude the sale of combination trifecta tickets in the amount of six (6) dollars.~~

~~Section 10. Twin Trifecta. The twin trifecta shall be a form of pari-mutuel wagering. It shall not be a parlay and shall not have a connection with or relation to any other pari-mutuel pools made and conducted by an association. The twin trifecta shall not be connected with or related to any win, place, and show pools shown on the totalizator board, and it shall not be governed by any division rules pertaining to the distribution of any other pari-mutuel pools.~~

~~(1) In the twin trifecta, the bettor shall select the three (3) horses that will finish first, second, and third in each of the two (2) designated twin trifecta races in the exact order as officially posted.~~

~~(2) Twin trifecta tickets shall be sold and exchanged only from the association's ticket-issuing machines.~~

~~(3) Twin trifecta wagers shall be made only in denominations of three (3) dollars.~~

~~(4) Each bettor purchasing twin trifecta tickets shall designate three (3) selections as the first three (3) horses to finish in that order in the first race of the designated two (2) twin trifecta races.~~

~~(5) After the wagering closes for the first half of the twin trifec-~~

ta, the commissions shall be deducted from the pool pursuant to KRS 138.510. The remaining pool shall then be divided into two (2) separate pools of equal amounts.

(6) The money in the first part of the divided pool shall be distributed to the holders of the twin trifecta tickets selecting the first three (3) horses, in order, on the first designated twin trifecta race, in accordance with this administrative regulation. The term "first part of divided pool" shall mean one-half (1/2) of the net distributive pool of the total money wagered in the twin trifecta on the current program only and, specifically excluded therefrom shall be any carry-over of any special cumulative second race twin trifecta pool from any previous program.

(7) The second part of the divided pool shall be placed in a separate pool to be distributed to holders of second half twin trifecta tickets selecting the first three (3) horses, in order, on the second designated twin trifecta race, in accordance with this administrative regulation.

(8) In the first half of the twin trifecta only, if there is a failure to select, in exact order, the first three (3) horses, payoffs and exchanges shall be made on twin trifecta tickets selecting in the following order of priority:

(a) The first two (2) horses in exact order, if no such ticket is outstanding, then;

(b) The first horse, and any ticket within the applicable above order of priority shall be deemed a winning ticket entitling the holder thereof to an exchange ticket, in addition to the usual payoff for first half winners; and

(c) Failure to select winner to win, regardless of the selection of the exact order of the second or third horse shall cause a refund to all twin trifecta tickets.

(9) After the official declaration of the first three (3) horses to finish in the first race of the twin trifecta, each bettor holding a winning ticket shall, prior to the running of the second twin trifecta race, exchange the winning ticket for both the monetary value established by the association's mutuel department and a twin trifecta exchange ticket and shall select the three (3) horses to finish in the second race of the twin trifecta in exact order as officially posted. Further money shall not be required of the holder of the winning ticket in order to make the exchange. Each association conducting the twin trifecta shall designate all windows to be used as exchange windows unless the first half payoff is $900 or more in winnings (if such winnings are at least 300 times the amount of the single wager). If that occurs, valid exchange tickets shall be exchanged only at all windows designated IRS windows.

(10) A twin trifecta exchange ticket upon the second race of the twin trifecta shall not be issued except upon surrender of the winning twin trifecta ticket from the first race of the twin trifecta pursuant to subsection (9) of this section. Windows for the purpose of cashing and exchanging twin trifecta tickets shall be open only after the first race of the twin trifecta has been declared official and windows shall close when wagering closes for the race designated as the second half of the twin trifecta. More than one (1) race shall not elapse between the race designated the first half of the twin trifecta and the race designated as the second half of the twin trifecta.

(11) If a winning twin trifecta ticket from the first race is not presented for cashing and exchange with the time provided, the bettor may still collect the monetary value attached to the ticket but shall forfeit all rights to any distribution of the second race twin trifecta pool and the carry-over jackpot.

(12) If a horse is scratched from the first race of the twin trifecta, all twin trifecta tickets on the scratched horse shall be refunded. If a horse is scratched from the second race of the twin trifecta, public address announcements shall be made and a reasonable time shall be given for exchange of tickets on the scratched horse.

(13) If there is a dead heat in either the first or second half of the twin trifecta, all twin trifecta tickets selecting the correct order of finish counting a horse in a dead heat as finishing in any position dead heated shall be winning tickets. If there is a dead heat occurring in the first half, the payoff shall be calculated as a win pool. If there is a dead heat occurring in the second half, contrary to the usual pari-mutuel practice, the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

(14) If there is no twin trifecta ticket issued accurately selecting the officially declared first three (3) finishers of the second race, the pool, as divided earlier, shall be held for the next consecutive program and combined with that program's second race twin trifecta pool. This sum shall be termed the "carry-over jackpot". Distribution of the special cumulative second race twin trifecta pool shall be made only upon the accurate selection, in exact order, of the first three (3) officially declared finishers of the second twin trifecta race except on the closing program of the meeting pursuant to subsection (16) of this section.

(15) If for any reason the second half of the twin trifecta is not declared "official", the winning ticket holders who have cashed their tickets on the first half and have received an exchange ticket shall be entitled to the remaining amount of the current program's divided pool.

(16) On the closing program of the meeting, the current carry-over jackpot, if any, plus the second half pool for that program shall be combined and distributed in the following manner:

(a) The total twin trifecta pool shall be distributed to the holders of twin trifecta exchange tickets showing the first three (3) horses to finish, in exact order.

(b) If there are no twin trifecta exchange tickets showing the first three (3) horses, in the exact order, the payoff shall be made on twin trifecta exchange tickets selecting the first two (2) horses in exact order.

(c) If there is no twin trifecta exchange ticket showing the first two (2) horses in exact order, the first horse, and any ticket within the applicable above order of priority shall be deemed a winning ticket entitling the holder to the total twin trifecta pool.

(d) If there are no valid exchange ticket holders, the total twin trifecta pool shall be distributed to the holders of first half tickets selecting the first two (2) horses in the exact order.

(e) If there are no first half twin trifecta tickets showing the first two (2) horses, the total twin trifecta pool shall be distributed to the holders of first half tickets selecting the horse of the first half of the twin trifecta.

(f) If no ticket is sold that requires the distribution of the net pools as established by this subsection, the association shall equally distribute the total twin trifecta pool to all first half ticket holders.

(17) Sales of twin trifecta tickets other than from the association's ticket- issuing machines or from one (1) individual to another shall be deemed illegal. Exchange tickets shall not be transferable. Persons involved in the unauthorized transfer of exchange tickets shall be ejected.

Section 11. Superfecta Wagering. (1) The superfecta shall be a contract by the purchaser of a ticket combining four (4) horses in a single race, selecting the four (4) horses that subsequently finish first, second, third, and fourth in that race.

(2) Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(3) The superfecta shall not be a parlay and shall not have a connection with or relation to the win, place, or show betting and shall be calculated as an entirely separate pool.

(4) Superfecta tickets shall not be sold in less than one (1) dollar denominations.

(5) If no ticket is sold on the winning combination of a superfecta pool, the net pool shall be distributed to the holders of tickets selecting the win, place, and show finishers in that order.

(a) If no ticket is sold combining the win, place, and show finish, the net pool shall be distributed to the holders of tickets selecting the win, and place finishers in that order.

(b) If no ticket is sold combining the win and place finish, the net pool shall be distributed to the holders of tickets selecting the winner.

(6) If no ticket is sold that requires distribution of the net superfecta pool to a winner pursuant to subsection (5) of this section, the association shall make a full refund of the superfecta pool.

(7) If there is a dead heat or dead heats, all superfecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead heated, shall be winning tickets and the payoff shall be calculated as a place pool.

(8) If there is a scratch in the superfecta, exchanges shall not

be made. All tickets which include the scratched horse shall be eliminated from further participation in the superfecta pool and shall be refunded.

(9) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the superfecta shall race as a single wagering interest for the purpose of superfecta pari-mutuel pool calculations and payouts to the public.

(10) Superfecta tickets shall be sold only by the licensee through pari-mutuel machines programmed to print all sections on one (1) ticket. Resale of the tickets from one (1) individual to another shall be prohibited and shall be grounds for ejection.

(11) Each association shall print in heavy type in a conspicuous place in its printed program all the provisions of this section and post printed copies of this section about the track.

(12) For the purposes of superfecta wagering, the superfecta race shall be drawn to consist of eight (8) separate wagering interests.

(a) If a horse or horses are scratched from a superfecta race with the race now containing less than eight (8) separate wagering interests and wagering has not commenced, the superfecta pool shall be cancelled.

(b) If a horse or horses are scratched from a superfecta race and wagering has commenced, the superfecta pool shall remain until there are less than six (6) separate wagering interests.

(13) Nothing in this section shall preclude the sale of combination superfecta tickets in the amount of twenty-four (24) dollars.

Section 12. Pick-3 Wagering. (1) The Pick-3 pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place, or show pool shown on the totalizator board, nor to the administrative regulation governing the distribution of the other pools.

(2) A valid Pick-3 ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and the ticket shall constitute an acceptance of Pick-3 provisions and administrative regulations.

(3) The Pick-3 pari-mutuel pool consists of amounts contributed for a selection for win only in three (3) consecutive races designated by the association with the approval of the Kentucky Racing Commission. Each person purchasing a Pick-3 ticket shall designate the winning horse in each of the three (3) races comprising the Pick-3.

(4) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Pick-3 shall race as a single wagering interest for the purpose of the Pick-3 pari-mutuel pool calculations and pay-outs to the public. If any part of either entry or field racing as a single interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Pick-3 calculation, and the selection shall not be deemed scratched.

(5) The net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners in all three (3) races comprising the Pick-3.

(6) If no ticket is sold combining the three (3) winners of the Pick-3, the net amount in the pari-mutuel pool shall be distributed among the holders of tickets which include the winners of at least two (2) of the three (3) races comprising the Pick-3.

(7) If no ticket is sold combining at least two (2) winners of the Pick-3, the net amount in the pari-mutuel pool shall be distributed among the holders of tickets which include the winner of any one (1) race comprising the Pick-3.

(8) If no ticket is sold that would require distribution of the Pick-3 pool to a winner pursuant to subsections (6) and (7) of this section, the association shall make a complete and full refund of the Pick-3 pool.

(9) If for any reason one of the races comprising the Pick-3 is cancelled, the net amount of the pari-mutuel pool shall be distributed as provided above in subsections (6), (7), and (8) of this section.

(10) If for any reason two (2) or more races comprising the Pick-3 are cancelled, a full and complete refund shall be made of the Pick-3 pool.

(11) If a Pick-3 ticket designates a selection in any one (1) or more races comprising the Pick-3 and that selection is scratched, excused, or determined by the judges or stewards to be a nonstarter in a race, the actual favorite, as evidenced by the amounts wagered in the final win pool of the race, shall be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. If the win pool total for two (2) or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number.

(12) If there is a dead heat for win between two (2) or more horses in any Pick-3 race, all of the horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

(13) A pari-mutuel ticket for the Pick-3 shall not be sold, exchanged, or cancelled after the time of the closing of wagering in the first of the three (3) races comprising the Pick-3, except for refunds on Pick-3 tickets as required by this administrative regulation, and a person shall not disclose the number of tickets sold in the Pick-3 pool or the number of tickets selecting winners of Pick-3 races until the time that the judges or stewards have determined the last race comprising the Pick-3 to be official.

Section 13. Pick-4 Wagering. (1) The Pick-4 pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place, or show pool shown on the totalizator board, nor to the rules governing the distribution of the other pools.

(2) A valid Pick-4 ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and the ticket shall constitute an acceptance of Pick-4 provisions and administrative regulations.

(3) The Pick-4 pari-mutuel pool consists of amounts contributed for a selection for win only in four (4) consecutive races designated by the association with the approval of the Kentucky Racing Commission. Each person purchasing a Pick-4 ticket shall designate the winning horse in each of the four (4) races comprising the Pick-4.

(4) Those horse constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Pick-4 shall race as a single wagering interest for the purpose of the Pick-4 pari-mutuel pool calculations and pay-outs to the public. If any part of either entry or field racing as a single interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Pick-4 calculation, and the selection shall not be deemed scratched.

(5) The net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners in all four (4) races comprising the Pick-4.

(6) If no ticket is sold combining the four (4) winners of the Pick-4, the net amount in the pari-mutuel pool shall be distributed among holders of tickets which include the winners of at least three (3) of the four (4) races comprising the Pick-4.

(7) If no ticket is sold combining at least three (3) winners of the pick-4, the net amount in the pari-mutuel pool shall be distributed amount of the holders of tickets which include the winners of at least two (2) of the four (4) races comprising the Pick-4.

(8) If no ticket is sold combining at least two (2) winners of the Pick-4, the net amount in the pari-mutuel pool shall be distributed among the holders of tickets which include the winner of any one (1) race comprising the Pick-4.

(9) If no ticket is sold that would require distribution of the Pick-4 pool to a winner pursuant to subsections (6), (7), and (8) of this section, the association shall make a complete and full refund of the Pick-4 pool.

(10) If for any reason one (1) of the races comprising the Pick-4 is cancelled, the net amount of the pari-mutuel pool shall be distributed as provided above in subsections (6), (7), (8), and (9) of this section.

(11) If for any reason three (3) or more races comprising the Pick-4 are cancelled, a full and complete refund will be made of the Pick-4 pool.

(12) If a Pick-4 ticket designates a selection in any one (1) or more races comprising the Pick-4 and that selection is scratched,

~~excused, or determined by the judges or stewards to be a nonstarter in a race, the actual favorite, as evidenced by the amounts wagered in the final win pool of the race, shall be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs. If the win pool total for two (2) or more favorites are identical, the substitute selection shall be the betting interest with the lowest program number.~~

~~(13) If there is a dead heat for win between two (2) or more horses in any Pick-4 race, all of the horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.~~

~~(14) A pari-mutuel ticket for the Pick-4 shall not be sold, exchanged, or cancelled after the time of the closing of wagering in the first of the four (4) races comprising the Pick-4, except for refunds on Pick-4 tickets as required by this administrative regulation, and a person shall not disclose the number of tickets sold in the Pick-4 pool or the number of tickets selecting winners of Pick-4 races until the time when the judges or stewards have determined the last race comprising the Pick-4 to be official.~~

~~Section 14. Pick-4 Wagering with Carryover. (1) The Pick-4 with a carryover abides by the same requirements as stated in Section 13 of this administrative regulation with the exception of how the payoff is calculated.~~

~~(2) The net amount of the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of tickets which correctly designate the winners of all four (4) races comprising the Pick-4.~~

~~(3) If no ticket is sold combining the four (4) winners of the Pick-4, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick-4 races.~~

~~(4) The remainder of the net pool shall be added to the carryover. The carryover amount shall then be added to the Pick-4 pool the following race day.~~

~~(5) If there is no ticket sold combining the four (4) winners of the Pick-4 and it is the final race of the meet, the entire net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of races.~~

~~Section 15. The following types of wagering shall be permitted at all tracks given racing dates by the commission:~~

~~(1) Normal win, place, and show betting on each race;~~

~~(2) A daily double on the first and second race; and~~

~~(3) Any other methods of betting approved in advance by the commission.~~

~~Section 16. Betting Interests Involving More than One (1) Horse. If two (2) or more horses entered for the same race are determined by the commission to have common ties through ownership and are joined by the commission as a mutuel entry, the mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. If the number of horses competing in a race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator together with horses of higher numbers, shall be grouped in the mutuel field as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.~~

~~Section 17. Emergency Situation. If any emergency arises in connection with the operation of the pari-mutuel department not provided for by this administrative regulation, the pari-mutuel manager shall make an immediate decision and shall by the quickest means possible notify the presiding judge and render a full report to the commission.~~

~~Section 18. Incorporation by Reference. (1) "Race Track Pari-Mutuel and Admissions Report, 73A100", 7/00 is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Racing Commission, 4063 Iron Works Pike, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary
APPROVED BY AGENCY: July 20, 2010
FILED WITH LRC: July 20, 2010 at 2 p.m.
CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, May 10, 2011)

811 KAR 1:250. Exotic wagering.

RELATES TO: KRS 230.210-230.375, 230.990
STATUTORY AUTHORITY: KRS 230.215, 230.240, 230.260, 230.280, 230.290, 230.300, 230.310, 230.320, 230.361, 230.370
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which standardbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the procedures and regulations governing exotic wagering under KRS Chapter 230 and 811 KAR Chapter 1.

Section 1. All Pari-mutuel Wagers on an Historical Horse Race Are Exotic Wagers. All pari-mutuel wagers other than win, place, or show wagers on a live horse race are exotic wagers.

Section 2. Exotic Wagers to Be Approved by Commission. (1) An association shall not offer an exotic wager on any live or historical horse race without the prior written approval of the commission.

(2) An association making a request to offer an exotic wager on a live or historical horse race may make an oral presentation to the commission regarding the wager, prior to the commission deciding on the request.

(a) The presentation shall be made by the association during a meeting of the commission.

(b) The presentation shall be limited to the information contained in the written request and any supplemental information relevant to the commission's determination of the suitability of the wager.

(c) The commission may require an association to clarify or otherwise respond to questions concerning the written request as a condition to approval of the exotic wager.

(3) The commission may request additional information from an association regarding the exotic wager if the additional information would assist the commission in deciding whether to approve it.

(4) In reviewing a written request for an exotic wager, the commission may consider any information, data, reports, findings, or other factors available which it considers important or relevant to its determination of whether the wager should be approved.

(5) The commission or its designee shall review and test the exotic wager and shall give its approval if it is satisfied that:

(a) The wager does not adversely affect the safety or integrity of horse racing or pari-mutuel wagering in the Commonwealth; and

(b) The wager complies with KRS Chapter 230 and **811 KAR Chapter 1[**~~these administrative regulations~~**]**.

(6) **The commission shall notify the association if it determines that the criteria set forth in subsection (5) of this section are no longer being met and it intends to withdraw approval of a particular exotic wager.[**~~The commission shall have the right to withdraw the approval of any exotic wager if it determines that the criteria set forth in subsection (5) of this section are no longer being met.~~**]**

(7) An association shall not implement any change or modification to the practices, procedures, or representations upon which

the approval of the exotic wager was based without the prior written approval of the commission.

Section 3. Exotic Wagers on a Live Horse Race. (1) Except as set forth in subsection (2) of this section, an association shall submit a written request to the commission for permission to offer any exotic wager on a live horse race, which shall include a detailed description of the rules that apply to the wager and the method of calculating payouts.

(2) If the rules have not been modified since the wager was approved by the commission, an association shall not be required to seek the commission's approval to offer the following previously approved exotic wagers on live horse races: Exacta, Perfecta, Quinella, Trifecta, Superfecta, Double Perfecta, Big Q, Twin Trifecta, Daily Double, Super High 5, Pick-3, Pick-4, and Pick-6.

Section 4. Exotic Wagers on an Historical Horse Race. (1) An association shall submit a written request to the commission for permission to offer any exotic wager on an historical horse race, which shall include:

(a) The types, number, and denominations of pari-mutuel wagers to be offered;

(b) A detailed description of the rules that apply to the pari-mutuel wager and the method of calculating payouts, including how money will be allocated to the seed pool;

(c) The days and hours of operation during which wagering on historical horse races will be offered;

(d) A detailed description of the proposed designated area and the **terminal or terminals[**~~terminal(s)~~**]** on which the pari-mutuel wagers **will[**~~shall~~**]** be made, including an architect's rendering of the proposed designated area which describes the size, construction, layout, capacity, number of terminals, **and** location of surveillance and other security equipment, and at least one (1) photograph of the designated area when construction is completed;

(e) The practices and procedures that will ensure the security, safety, and comfort of patrons in the designated area;

(f) The manufacturer, make, and model of the terminal, including a copy of all literature supplied by the manufacturer of the terminal;

(g) The maintenance and repair procedures that will ensure the integrity of the terminals;

(h) A complete list of individuals who are authorized to examine and repair the terminals for any reason; and

(i) A memorandum outlining the terms of the agreement between the association and the Kentucky Harness Horsemen's Association referenced in Section 6(2) of this administrative regulation.

(2)(a) Except as set forth in paragraph (b) of this subsection, each association that is approved by the commission to offer exotic wagering on an historical horse race shall request, in any application submitted for a license to conduct live horse racing pursuant to KRS 230.300 and 811 KAR 1:037**:[**~~;~~**]**

1. No less than 100 percent of the number of racing days initially requested by the association in its application to conduct standardbred racing for the 2010 racing year; and

2. No less than 100 percent of the number of races initially requested by the association in its application to conduct standardbred racing for the 2010 racing year.

(b) An association may apply for less than 100 percent of the number of racing days initially applied for by the association in its application to conduct standardbred racing for 2010, or the number of races initially applied for by the association in its application to conduct standardbred racing for 2010, if written approval is obtained from the commission and the Kentucky Harness Horsemen's Association.

Section 5. Terminals Used for Wagering on an Historical Horse Race. (1) Wagering on historical horse races shall be conducted only on terminals approved by the commission **as set forth in Sections 2(5) and 5(2) of this administrative regulation**. The commission shall not require any particular make of terminal.

(2)(a) The commission shall require testing of each terminal used for wagering on historical horse races by an independent testing laboratory to ensure its integrity and proper working order.

(b) The independent testing laboratory shall be chosen by the commission and the expense of the testing shall be paid by the association offering the wagering on historical horse races.

(3) Each terminal for wagering on an historical horse race shall display odds or pool amounts that the patron will receive for a winning wager on each pari-mutuel wagering pool.

Section 6. Takeout. (1) Each association conducting exotic wagering on historical horse races shall deduct a takeout, which shall not exceed the percentages set forth in KRS 230.750.

(2)(a) Each association shall enter into an agreement with the Kentucky Harness Horsemen's Association establishing the allocation of the takeout on all exotic wagers on historical horse races offered by the association. The agreement shall apply to all exotic wagers on historical horse races offered, or to be offered, by the association during the term of the agreement.

(b) The agreement shall include provisions allocating a percentage of the takeout to purses on live races run by the association.

(c) Each association shall provide a memorandum outlining the terms of the agreement to the commission.

Section 7. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary
APPROVED BY AGENCY: July 20, 2010
FILED WITH LRC: July 20, 2010 at 2 p.m.
CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(As Amended at ARRS, May 10, 2011)

811 KAR 2:010. Definitions.

RELATES TO: KRS Chapter 230[~~230.610-230.770~~]
STATUTORY AUTHORITY: KRS 230.215, 230.225**(5)[**~~(7)~~**]**, 230.260, **230.361(1),** 230.370 [~~Chapter 13A~~]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which quarter horse, appaloosa and Arabian racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation defines the terms used in 811 KAR Chapter 2.[~~To regulate conditions under which Arabian, quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this administrative regulation is to define the terms used in the commission's rules and administrative regulations.~~]

Section 1. Definitions. [~~The following words and phrases, irrespective of literal meaning as defined in recognized dictionaries, have assumed special meaning and connotations as used in racing, and in the context of these rules, shall be construed as having the following special meaning:~~] (1) "Added money" means cash, exclusive of trophy or other award, added by the association to stake fees paid by subscribers to form the total purse for a stakes race.

(2) "Age" **means the number of years since a horse was foaled, reckoned as if the horse was foaled on January 1** of **[**~~a horse is reckoned as beginning on the first day of January in~~**]** the year in which the horse is foaled.

(3) "Allowance race" means a race in which contestants re-

ceive weight allowance based on performance **or[**~~and/or~~**]** winnings as stipulated in the conditions **of the race[**~~thereof~~**]**.

(4) "Appaloosa horse" means a horse duly registered with the Appaloosa Horse Club, Inc., Moscow, Idaho.

(5) "Arabian horse" means a horse duly registered with the Arabian Horse Club Registry of America.

(6) "Arrears" means money due for entrance fees, jockey fees, nomination or supplemental fees in stake races, fines, purchase money in claiming races, and any[~~/or~~] default [~~in any payment due~~] incidental to 811 KAR Chapter 2[~~the rules and administrative regulations or conditions of a race~~].

(7) "Association" is defined by KRS 230.210(1).[~~means any person, corporation, organization, or partnership licensed by the Kentucky Quarter Horse and Appaloosa Commission under KRS 230.420(2) and engaged in the conduct of a recognized Arabian, quarter horse or appaloosa race meeting.~~]

(8) "Authorized agent" means an agent appointed by a notarized document signed by the owner or jockey and filed [~~lodged~~] annually with the[~~Secretary of the Kentucky Quarter Horse and Appaloosa Commission, or if a single meeting only with the secretary of the meeting, to be sent to the~~] commission.

(9) "Betting interest" means a single horse or more than one (1) horse joined as a ["]mutuel entry["] or joined in the ["]mutuel field,["] on which a single pari-mutuel wager may be placed.

(10) "Bleeder" means any horse known to have bled internally or from its nostrils during a workout or race.

(11) "Breakage" means the net pool minus the payout.

(12) "Bred" means the place at which a horse is foaled.

(13)[~~(12)~~] "Breeder" **means the owner of the dam of a horse when serviced[**~~of a horse is the owner of its dam at the time of service~~**]**.

(14) "Calendar days" means consecutive days counted irrespective of number of racing days.

(15) "Carryover" means nondistributed pool monies which are retained and added to a corresponding pool in accordance with 811 KAR Chapter 2.

(16)[~~(13)~~] "Claiming race" means any race in which every horse running **in the race[**~~therein~~**]** may be transferred in conformity with **811 KAR Chapter 2[**~~these rules~~**]**.

(17)[~~(14)~~] "Closing" means **the** time published by the association after which entries for a race will not be accepted.

(18)[~~(15)~~] "Commission" means**:**

(a) The Kentucky Horse Racing Commission (formerly known as the Kentucky Horse Racing Authority and defined in KRS 230.210(2)) **if[**~~when~~**]** used in the context of the administrative agency governing horse racing and pari-mutuel wagering; **and**

(b) If[~~when~~**]** used in the context of pari-mutuel wagering, **[**~~means~~**]** the amount an association is authorized to withhold from a pari-mutuel wager pursuant to KRS 230.3615 [~~the Kentucky Quarter Horse and Appaloosa Commission. "Commissioner" is a member of the commission~~].

(19)[~~(16)~~] "Corrupt practice" means [~~shall mean~~] any attempt to enrich oneself or one's associates or gain an advantage, through unfair, unlawful, or dishonest behavior in connection with the racing of horses.

(20)[~~(17)~~] "Day" means any twenty-four (24) hour period beginning at 12:01 a.m.**[**~~,~~**]** and ending at midnight.

(21) "Dead heat" means a finish of a race in which the noses of two (2) or more horses reach the finish line at the same time.

(22) [~~"Racing day" is a day on which races are conducted. "Calendar days" are those consecutive days counted irrespective of number of "racing days."~~

~~(18)~~] "Declaration" means withdrawal of a horse entered in a race prior to the time of closing of entries **for the race[**~~therefor~~**]** in conformance with **811 KAR Chapter 2[**~~these rules~~**]**.

(23) "Designated area" means any enclosed area that the commission has approved for the location of terminals used for wagering on an historical horse race.

(24)[~~(19)~~] "Directive" means an official order issued by the commission.

(25) "Disciplinary action" means action taken by the stewards or the commission for a violation of **KRS Chapter 230 or 811 KAR Chapter 2 and can include:**

(a)[~~a statute or administrative regulation and can include,~~**]** Refusal to issue or renew a license**;**

(b)[~~,~~**]** Revocation or suspension of a license**;**

(c)[~~,~~**]** Imposition of probationary conditions on a license**;**

(d)[~~,~~**]** Issuance of a written reprimand or admonishment**;**

(e)[~~,~~**]** Imposition of fines or penalties**;**

(f)[~~,~~**]** Denial of purse money**;**

(g)[~~,~~**]** Forfeiture of purse money**; or**

(h) Any combination of paragraphs (a) through (g) of this subsection[~~(20) "Disciplinary action" means that taken by the stewards or the commission for a rule violation and can include suspension, revocation, voidance of a license or ejection or exclusion from association grounds, or assessment of a forfeiture, or reprimand~~]**[**~~, or any combination thereof~~**]**.

(26)[~~(21)~~] "Disqualification" means an order of the stewards or commission revising the order of finish of a race.

(27)[~~(22)~~] "Entry" means the act of nominating a horse for a race in conformance with **811 KAR Chapter 2[**~~these rules~~**]**. [~~(See "mutuel entry.")~~]

(28)[~~(23)~~] "Equipment" means accoutrements[~~accouterments~~] other than ordinary saddle, girth, pad, saddle cloth, and bridle carried by a horse, and includes whip, blinkers, tongue strap, muzzle, hood, noseband, bit, shadow roll, martingale, breast plate, bandages, boots, and racing plates or shoes.

(29)[~~(24)~~] "Exhibition race" means a race between horses of diverse ownership for which a purse is offered by the association, but on which no pari-mutuel wagering is permitted.

(30) "Exotic wager" means any pari-mutuel wager placed on a live or historical horse race other than a win, place, or show wager placed on a live horse race.

(31) "Field" or "mutuel field" means a single betting interest involving more than one (1) horse which is not a mutuel entry.

(32)[~~(25) "Field or mutuel field" means a single betting interest involving more than one (1) horse formed when the number of horses starting in a race exceeds the numbering capacity of the totalizator, and the highest numbered horse within the numbering capacity of the totalizator and all horses of a higher number are grouped in the "mutuel field."~~

~~(26)~~] "Forfeit" means money due by a licensee because of an error, fault, neglect of duty, breach of contract, or alternative order of the stewards or commission.

(33)[~~(27)~~] "Foul" means any action by any jockey that tends to hinder another jockey or any horse in the proper running of the race.

(34) "Free handicap" means a handicap for which no nominating fee is required to be weighted, but an entrance or starting fee may be required for starting in the race.

(35)[~~(34)~~**]**[~~(28)~~] "Handicap race" means a race in which the weights to be carried by the horses **[**~~therein~~**]** are assigned by the association handicapper with the intent of equalizing the chances of winning for all horses entered **in the race.[**~~therein. A "free handicap" is a handicap for which no nominating fee is required to be weighted, but an entrance or starting fee may be required for starting therein.~~**]**

(36)[~~(35)~~**]** "Handle" means the aggregate of all pari-mutuel pools, excluding refundable wagers.

(37)[~~(36)~~**]** "Historical horse race" means any horse race that**:**

(a) Was previously run at a licensed pari-mutuel facility located in the United States**;**

(b)[~~and that~~**]** Concluded with official results**; and**

(c)[~~. An historical horse race must have~~**]** Concluded without scratches, disqualifications, or dead-heat finishes.

(38)[~~(37)~~**]**[~~(29)~~] "Horse" means a quarter horse, appaloosa, or Arabian[~~Arabian, quarter horse or appaloosa~~] registered as such with the American Quarter Horse Association in Amarillo, Texas, or the Appaloosa Horse Club, Inc., in Moscow, Idaho**,[**~~; and when used in these rules to designate any quarter horse, appaloosa, or Arabian~~**]**[~~Arabian, quarter horse or appaloosa~~] irrespective of age or sex designation.

(39)[~~(38)~~**]**[~~(30)~~] "Ineligible" means a horse or person not qualified under **811 KAR Chapter 2[**~~these rules~~**]** or conditions of a race to participate in a specified racing activity.

(40)[~~(39)~~**]** "Initial seed pool" means a nonrefundable pool of money funded by an association in an amount sufficient to ensure that a patron will be paid the minimum amount required on a win-

ning wager on an historical horse race.

(41)[(40)][(31)] "Jockey" means rider currently licensed to ride in races as a jockey, [or] amateur jockey, or a provisional jockey permitted by the stewards to ride in two (2) races prior to applying for a license.

(42)[(41)][(32)] "Kentucky bred" **means[is]** a foal dropped by a mare after being bred in Kentucky.

(43)[(42)][(33)] "Kentucky race" means a race in which the contestants are Kentucky bred and foaled horses as stipulated in the conditions **of the race**.

(44)[(43)][(34)] "Lessee" means licensed owner whose interest in a horse is a leasehold.

(45)[(44)**]** "Licensed premises" means the location and physical plant described in response to question P of the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering" filed for racing to be conducted in 2010. Licensed premises may also include real property of an association, if the association receives approval from the commission for a new location at which live racing will be conducted.

(46)[(45)][(35)] "Licensee" means an individual, firm, association, partnership, corporation, trustee, or legal representative [person or association] that has been duly issued a currently valid license to participate in racing in the [this] Commonwealth [by the Kentucky Quarter Horse and Appaloosa Commission].

(47)[(46)][(36)] "Maiden" **means[is]** a horse which shows in the Daily Racing Form, the American Quarter Horse Chart Book**,** or the Appaloosa Chart Book as never having won a race on a track recognized by the [Kentucky Quarter Horse and Appaloosa] commission. A maiden which has been disqualified after finishing first in a race is still a maiden.

(48)[(47)][(37)] "Match race" means a race between two (2) horses for which no other horses are eligible.

(49)[(48)][(38)] "Meeting" means the entire period of consecutive days, exclusive of Sundays and dark days, granted by the commission to a licensed association for the conduct of live horse racing, beginning at 10 a.m. of the first racing day and extending through a period ending one (1) hour after the last scheduled race of the last day.**[**(See "recognized meeting.")**]**

(50)[(49)**]** "Minus pool" means a pari-mutuel pool in which the amount of money to be distributed on winning wagers exceeds the amount of money contained in the net pool.

(51)[(50)][(39)] "Month" means calendar month.

(52)[(51)][(40)] "Mutuel entry" means a single betting interest involving two (2) or more horses entered in the same race and joined for pari-mutuel purposes because of common ties as to ownership or training so that a wager on one (1) horse joined in a "mutuel entry" is a wager on all horses joined in the same "mutuel entry."

(53)[(52)**]** "Net pool" means the total amount wagered less refundable wagers and takeout.

(54)[(53)][(41) "Mutuel field" means the same as "field." (See subsection (24) of this section.)

(42)] "Nomination fee" **means a fee to keep a horse eligible to run in a stakes race**.**[**(See "subscription").**]**

(55)[(54)][(43)] "Nominator" means any person in whose name a horse is entered for a stake race.

(56)[(55)][(44)] "Off time" **means[is]** the moment at which, on signal of the starter, the horses break and run.

(57)[(56)][(45)] "Owner" means any person who holds, in whole or in part, any right, title, or interest in a horse, or any lessee of a horse, who has been duly issued a currently valid owner's license as a person responsible for **the[**such**]** horse.

(58)[(57)**]** "Pari-mutuel wagering", "mutuel wagering", or "pari-mutuel system of wagering" each mean a system or method of wagering approved by the commission in which patrons are wagering among themselves and not against the association and amounts wagered are placed in one (1) or more designated wagering pools and the net pool is returned to the winning patrons.

(59)[(58)**]** "Patron" means an individual present at a track or a simulcast facility who observes or wagers on a live or historical horse race.

(60)[(59)**]** "Payout" means the amount of the net pool payable to an individual patron on his or her winning wager.

(61)[(60)][(46)] "Place" **if[**when**]** used in the context of a single position in the order of finish in a race, means second; **if[**when**]** used in the context of pari-mutuel wagering, a "place" wager is one involving a payoff on a betting interest which finished first or second in a race; **if[**when**]** used in the context of multiple positions in the order of finish in a race, "place or placing" means finishing first, **[**or**]** second, or third. **[**(See also, "unplaced.")**]**

(62)[(61)][(47)] "Post" means the starting point of a race.

(63)[(62)][(48)] "Post position" means the relative place assigned to each horse, numbered from the inner rail across the track at the starting line, from which each horse is to start a race.

(64)[(63)][(49)] "Post time" means the time set for the arrival at the starting point of the horses in a race.

(65)[(64)][(50)] "Prize" means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

(66)[(65)][(51)] "Purse" means the gross cash portion of the prize for which a race is run.

(67)[(66)][(52)] "Purse race" means any race for which entries close at a time designated by the racing secretary [less than ninety-six (96) hours prior to its running], and for which owners of horses entered are not required by its conditions to contribute money toward its purse.

(68)[(67)][(53)] "Quarter horse" means a horse registered with the American Quarter Horse Association of Amarillo, Texas.

(69)[(68)][(54)] "Race" means a running contest between horses, ridden by jockeys, over a prescribed course free of obstacles or jumps, at a recognized meeting, during regular racing hours, for a prize.

(70)[(69)][(55)] "Race day" means any period of twenty-four (24) hours beginning at 12:01 a.m. and ending at midnight **in[**on**]** which live racing is conducted by an association [midnight and included in the period of a race meeting].

(71)[(70)][(56)] "Racing official" means a racing commission member [commissioner], commission staff as duties require, and all association racing department employees, as duties require.

(72)[(71)][(57)] "Recognized meeting" means any race meeting conducted under jurisdiction of any legally constituted board or commission conducted with approval of the American Quarter Horse Association of Amarillo, Texas, or the Appaloosa Horse Club, Inc., of Moscow, Idaho.

(73)[(72)][(58)] "Recognized tracks" **means tracks that** are **[**those**]** conducting recognized meetings.

(74)[(73)][(59)] "Registration certificate" means **the** document issued by the American Quarter Horse Association of Amarillo, Texas, or the Appaloosa Horse Club, Inc., of Moscow, Idaho, certifying[as to] the name, age, color, sex, pedigree, and breeder of a horse as registered by number with the American Quarter Horse Association or the Appaloosa Horse Club.

(75)[(74)**]** "Result" means the part of the official order of finish in a race used to determine the pari-mutuel payoff of pools.

(76)[(75)][(60)] "Ruled off" means denial of entrance to premises of any association under jurisdiction of the commission. **[**(76)][(61)] **[**"Rules" when used in the plural, means**]** [shall be deemed to mean] **[**all current "rules" promulgated by the commission; when used in the singular means a specific numbered rule][, shall be deemed to be confined to the numbered "rule," and subparagraphs thereof, wherein such mention is made][.**]**

(77)[(62)] "Rulings" means all determinations, decisions, or orders of the stewards or of the commission duly issued in writing and posted.

(78)[(63)] "Schooling race" means a race designed to correct deficiencies in horses before being eligible for entry.

(79)[(64)] "Scratch" means withdrawal of a horse entered for a race after time of closing of entries **for the race[**therefor**]** in conformance with **811 KAR Chapter 2[**these rules**]**.

(80)[(65)] "Scratch time" means time set by the racing secretary as a deadline for horsemen to indicate their desire to scratch out of a race.

(81)[(66)] "Secretary" means duly appointed and currently serving secretary of the commission.

(82) "Seed pool" means a pool of money funded by patrons wagering on an historical horse race that is used to ensure that all patrons are paid the minimum payout on winning wagers.

(83)[~~(67)~~] "Specimen" means **a** sample of blood, urine, or other biologic sample [~~saliva~~] taken or drawn from a horse for chemical testing.

(84)[~~(68)~~] "Stakes" mean all fees paid by subscribers to an added-money or stakes race for nominating, eligibility, entrance, or starting, as may be required by the conditions of **the[**~~such~~**]** race, **the[**~~such~~**]** fees to be included in the purse.

(85)[~~(69)~~] "Stakes race" means **a** race which closes more than seventy-two (72) hours in advance of its running and for which subscribers contribute money towards its purse.

(86)[~~(70)~~] "Starter" means either:[~~"~~]

(a) An official who dispatches the horses from the starting gate; or

(b) A horse in a race when the starting gate doors open in front of it at the moment the starter dispatches the horses for the race.

(87) [~~is a starter when the stall doors of the starting gate open in front of it at the time the official starter dispatches the horses.~~

~~(71)~~] "Steward[~~Stewards~~]" means a duly appointed racing official [~~officials~~] with powers and duties set out in 811 KAR 2:025[~~812 KAR 1:025~~] serving at a current meeting in the[~~this~~] Commonwealth.

(88)[~~(72)~~] "Subscription" means a fee to keep a horse eligible to run in a **stakes[**~~stake~~**]** race.

(89)[~~(73)~~] "Suspended" means withdrawal by the steward or commission of racing privileges.

(90) "Takeout" means the total amount of money, excluding breakage and any amounts allocated to a seed pool, withheld from each pari-mutuel pool, as authorized by KRS 230.3615 and 811 KAR Chapter 2.

(91) "Terminal" means any self-service totalizator machine or other mechanical equipment used by a patron to place a pari-mutuel wager on a live or historical horse race.

(92) "Totalizator" means the system, including hardware, software, communications equipment, and electronic devices that accepts and processes the cashing of wagers; calculates the odds and prices of **the[**~~such~~**]** wagers; and records, displays, and stores pari-mutuel wagering information.

(93)[~~(74)~~] "Tote" or "[~~(~~]tote board[~~)~~]" means the totalizator.

(94)[~~(75)~~] "Trial race" means[~~is~~] a race designed primarily to determine the class of competing horses. A trial may be run as a purse race or stakes, or it may be run as a "time trial" with no purse at all. **If[**~~Whenever~~**]** a trial is run for a purse or stakes so small that the value to the winner is less than fifty (50) dollars, the winning of the race shall not be counted against the winner in calculating the weight he **shall[**~~must~~**]** carry under the conditions of a subsequent race.

(95)[~~(76)~~] "Unplaced" means a horse finishing a race outside the pari-mutuel payoff [~~not among the first three (3) horses finishing a race~~].

(96)[~~(77)~~] "Walkover" means race in which the only starter or all starters represent single ownership.

(97)[~~(78)~~] "Weigh in" means presentation of a jockey to the clerk of scales for weighing after a race.

(98)[~~(79)~~] "Weigh out" means **a** presentation of a jockey to the clerk of scales for weighing prior to a race.

(99)[~~(80)~~] "Weight" means the number of pounds carried or to be carried in a race and includes the jockey, his silks, breeches, and boots, saddle, pad and cloth but excludes the protective helmet, whip, and bridle.

(100)[~~(81)~~] "Workout" means training exercise of a horse on the training track or main track of an association during which **the[**~~such~~**]** horse is timed for speed over a specified distance.

(101)[~~(82)~~] "Year" means twelve (12) consecutive months beginning with January and ending with December.

Section 2. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary
APPROVED BY AGENCY: July 20, 2010
FILED WITH LRC: July 20, 2010 at 2 p.m.

CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

GENERAL GOVERNMENT CABINET
Board of Dentistry
(Amended After Comments)

201 KAR 8:550. Anesthesia and sedation.

RELATES TO: KRS 313.035
STATUTORY AUTHORITY: KRS 313.035(1)
NECESSITY, FUNCTION AND CONFORMITY: KRS 313.035(1) requires the board to promulgate administrative regulations related to conscious **anesthesia and sedation[**~~sedation and anesthesia~~**]** permits. This administrative regulation establishes requirements for permits to perform conscious sedation or anesthesia.

Section 1. Definitions. (1) "Advanced Cardiac Life Support" or "ACLS" means a certification that an individual has successfully completed an advanced cardiac life support course that meets or exceeds the standards established by the American Heart Association and incorporated by reference in 201 KAR **8:532[**~~8:530~~**]**.

(2) "Anesthesia" means an artificially induced insensibility to pain usually achieved by the administration of gases or drugs.

(3) "Anesthesia and sedation" means:

(a) Minimal sedation;

(b) Moderate sedation;

(c) Deep sedation; and

(d) General anesthesia.

(4) "Board" means the Kentucky Board of Dentistry.

(5) "Certified registered nurse anesthetist" means a registered nurse who is currently certified to practice nurse anesthesia in Kentucky.

(6) "Conscious sedation permit" means a permit that was issued by the board **prior to February 1, 2011[**~~before the effective date of this regulation~~**]**, that authorized the dentist to whom the permit was issued to administer parenteral sedation for the practice of dentistry.

(7) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Cardiovascular function is usually maintained.

(8) "Enteral" means a technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (oral, rectal, or sublingual).

(9) "Facility" means a location in which anesthesia or sedation is administered for the practice of dentistry.

(10) "Facility inspection" means an on-site inspection by the board or its designee to determine if a facility where the applicant proposes to provide anesthesia and sedation is adequately supplied, equipped, staffed, and maintained in a condition to support the provision of anesthesia and sedation services in a manner that meets the requirements of this administrative regulation.

(11) "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation, drug-induced depression, or changes in neuromuscular function. Cardiovascular function may be impaired.

(12) "General anesthesia permit" means a permit that was issued by the board prior to **February 1, 2011[**~~the effective date of this regulation~~**]**, that authorized the dentist to whom the permit was issued to administer general anesthesia for the practice of dentistry.

(13) "Incident" means dental treatment performed on a patient under minimal sedation, moderate sedation, deep sedation, or general anesthesia with unforeseen complications.

(14) "Incremental dosing" means administration of multiple doses of a drug until a desired effect is reached.

(15) "Minimal sedation" means a drug-induced state, with or without nitrous oxide to decrease anxiety, in which patients respond normally to tactile stimulation and verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are maintained and do not require assistance.

(16) "Moderate enteral sedation" means a drug-induced depression of consciousness through the gastrointestinal tract or oral mucosa during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Intervention is not required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(17) "Moderate parenteral sedation" means a drug-induced depression of consciousness that bypasses the gastrointestinal tract or oral mucosa during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Intervention is not required to maintain a patent airway and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(18) "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Intervention is not required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(19) **"Nitrous oxide sedation" means a technique of inhalation sedation with nitrous oxide and oxygen.**

(20) "Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract, that is, through an intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraosseous technique.

(21)[~~(20)~~**]** "Pediatric Advanced Life Support" or "PALS" means a certification that an individual has successfully completed a pediatric advanced life support course that meets or exceeds the standards established by the American Heart Association and incorporated by reference in 201 KAR **8:532.**

(22)[~~8:530. (21)~~**]** "Sedation" means the reduction of stress or excitement by the administration of a drug that has a soothing, calming, or tranquilizing effect.

Section 2. **Nitrous Oxide Sedation. (1) Nitrous oxide sedation may be used by a Kentucky-licensed dentist without a specific sedation permit or by a Kentucky-licensed dental hygienist certified to administer block and infiltration anesthesia and nitrous oxide analgesia.**

(2) Equipment used in the administration of nitrous oxide sedation shall have functional safeguard measures that:

(a) Limit the minimum oxygen concentration to thirty (30) percent; and

(b) Provide for scavenger elimination of nitrous oxide gas.

(3) The dentist shall:

(a) Insure that a patient receiving nitrous oxide is constantly monitored; and

(b) Be present in the office while nitrous oxide is being used.

(4)(a) Under a dentist's direct supervision and direct orders, a dental assistant may administer nitrous oxide.

(b) If a dental assistant administers nitrous oxide, the dental assistant shall administer the level prescribed by the dentist.

Section 3. Minimal Sedation Without a Permit. (1) A permit shall not be required for a dentist to administer minimal enteral sedation for patients age thirteen (13) and older.

(2) A dentist who intends to administer minimal sedation shall indicate the intent to administer minimal sedation in the patient's record.

(3) Medication used to produce minimal sedation shall not exceed the manufacturer's recommended dose (MRD) for unmonitored use by the individual. Additional dosing shall be within the MRD limits.

(4) A dentist who administers minimal sedation shall maintain a margin of safety and a level of consciousness that does not approach moderate sedation and other deeper states of sedation and general anesthesia.

(5) Nitrous oxide may be combined with an oral medication**. If nitrous oxide is combined with an oral medication, the level of sedation shall be[**~~only if the level of sedation is~~**]** maintained at the level of minimal sedation.

Section **4.[**~~3.~~**]** Permit and Location Certificate Required. (1) A dentist shall not administer an anesthetic technique in order to attain a level beyond minimal sedation for the practice of dentistry unless:

(a) The dentist holds an appropriate Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation**,** or Deep Sedation or General Anesthesia permit issued by the board; or

(b) The dentist holds a conscious sedation or general anesthesia permit that shall be converted to a Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, or Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permit at the next license renewal.

(2) A dentist shall not administer an anesthetic technique under a Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, **[**~~or~~**]**Deep Sedation or General Anesthesia, conscious sedation, or general anesthesia permit issued by the board at a facility unless:

(a) The facility has a current Anesthesia and Sedation Facility Certificate issued by the board; or

(b) The facility passed an inspection by the board for the purpose of issuing a conscious sedation or general anesthesia permit.

(3) A treating dentist who does not hold an anesthesia and sedation permit shall not allow a physician anesthesiologist, another dentist who holds an anesthesia and sedation permit, or a certified registered nurse anesthetist to administer an anesthetic technique in order to attain a level beyond minimal sedation for the practice of dentistry at a facility owned or operated by the treating dentist unless:

(a) The facility has a current Anesthesia and Sedation Facility Certificate issued by the board; or

(b) The facility passed an inspection by the board for the purpose of issuing a conscious sedation or general anesthesia permit.

Section **5.[**~~4.~~**]** Classifications of Anesthesia and Sedation Permits. The following permits shall be issued by the board to a qualified licensed dentist:

(1) Minimal Pediatric Sedation permit that authorizes a dentist to use minimal enteral sedation for patients age five (5) to twelve (12) Medication or medications used to produce minimal sedation shall not exceed the manufacturer's recommended dose (MRD) for unmonitored use by the individual. Incremental dosing shall be prohibited. All dosing shall be administered in the dental office. A dentist who administers minimal sedation shall maintain a margin of safety and a level of consciousness that does not approach moderate sedation and other deeper states of sedation and general anesthesia. Nitrous oxide may be combined with an oral medication**. If nitrous oxide is combined with an oral medication, the level of sedation shall be[**~~only if the level of sedation is~~**]** maintained at the level of minimal sedation**;[**~~.~~**]**

(2) Moderate Enteral Sedation permit that authorizes a dentist to use moderate enteral sedation for patients age thirteen (13) and older;

(3) Moderate Parenteral Sedation permit that authorizes a dentist to use moderate parenteral sedation for patients age thirteen (13) and older;

(4) Moderate Pediatric Sedation permit that authorizes a dentist to use moderate sedation by any route of administration for patients age twelve (12) and under**; and[**~~.~~**]**

(5) Deep Sedation or General Anesthesia permit that authorizes a dentist to use:

(a) General anesthesia; or

(b) Deep sedation.

Section **6.[**~~5.~~**]** Qualifications for Obtaining a Minimal Pediatric Sedation Permit. To qualify for a Minimal Pediatric Sedation permit, an applicant shall:

(1) Submit an Application for **[**~~a~~**]**Sedation or Anesthesia Permit**[which is incorporated by reference]**;

(2) Pay the fee required by 201 KAR 8:520;

(3) Hold current certification in either ACLS or PALS or successfully complete a six .(6) hour board-approved course that provides instruction on medical emergencies and airway management; and

(4) Provide proof of successful completion of:

(a) a Commission on Dental Accreditation (CODA) accredited postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage minimal sedation; or

(b) Provide proof of successful completion of a board-approved course that shall consist of a minimum of twenty-four (24) hours of didactic instruction on pediatric minimal sedation by the enteral route or the combination enteral and nitrous oxide route.

Section **7.[**~~6.~~**]** Qualifications for Obtaining a Moderate Enteral Sedation Permit. To qualify for a Moderate Enteral Sedation permit, an applicant shall:

(1) Submit an **[**~~"~~**]**Application for **[**~~a~~**]**Sedation or Anesthesia Permit**[**~~" which is incorporated by reference~~**]**;

(2) Pay the fee required by 201 KAR 8:520;

(3) Hold current certification in either ACLS or PALS or successfully complete a six (6) hour board-approved course that provides instruction on medical emergencies and airway management; and

(4) Provide proof of successful completion of:

(a) A Commission on Dental Accreditation (CODA) accredited postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage moderate sedation; or

(b) Provide proof of successful completion of a board-approved course that shall consist of a minimum of twenty-four (24) hours of didactic instruction plus management of at least ten (10) adult case experiences by the enteral route or the combination enteral and nitrous oxide route. These ten (10) cases shall include at least three (3) live (on sight) clinical dental experiences managed by participants in groups that shall not exceed five (5) individuals. These three (3) live (on-sight) experiences may be obtained by observing a permit level dentist in **his or her office,[**~~their office;~~**]** and the remaining cases may include simulations and video presentations and shall include at least one (1) experience in returning a patient from deep to moderate sedation.

Section **8.[**~~7.~~**]** Qualifications for Obtaining a Moderate Parenteral Sedation Permit. To qualify for a Moderate Parenteral Sedation permit, an applicant shall:

(1) Submit an Application for **[**~~a~~**]**Sedation or Anesthesia Permit**[which is incorporated by reference]**;

(2) Pay the fee required by 201 KAR8:520;

(3) Hold current certification in either ACLS or PALS or successfully complete a six (6) hour board-approved course that provides instruction on medical emergencies and airway management; and

(4) Provide proof of successful completion of:

(a) A CODA-accredited postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage moderate parenteral sedation; or

(b) Provide proof of successful completion of a board-approved course that shall consist of a minimum of sixty (60) hours of didactic instruction plus management of at least twenty (20) patients per course participant in moderate parenteral sedation techniques.

Section **9.[**~~8.~~**]** Qualifications for Obtaining a Moderate Pediatric Sedation Permit. To qualify for a Moderate Pediatric Sedation permit, an applicant shall:

(1) Submit an Application for **[**~~a~~**]**Sedation or Anesthesia Permit**[which is incorporated by reference]**;

(2) Pay the fee required by administrative regulation;

(3) Hold current certification in either ACLS or PALS or successfully complete a six (6) hour board-approved course that pro-

vides instruction on medical emergencies and airway management; and

(4) Provide proof of successful completion of a CODA-accredited postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage moderate sedation for patients age twelve (12) and under.

Section **10.[**~~9.~~**]** Qualifications for Obtaining a Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia Permit. To qualify for a Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permit, an applicant shall:

(1) Submit an Application for **[**~~a~~**]**Sedation or Anesthesia Permit**[**~~which is incorporated by reference~~**]**;

(2) Pay the fee required by administrative regulation;

(3) Hold current certification in either ACLS or PALS; and

(4) Provide proof of successful completion of:

(a) A board-approved Accreditation Council for Graduate Medical Education (ACGME) accredited post doctoral training program in anesthesiology which affords comprehensive and appropriate training necessary to administer deep sedation and general anesthesia;**[**~~or~~**]**

(b) **A board-approved nurse anesthesia program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs that affords comprehensive and appropriate training necessary to administer deep sedation and general anesthesia;**

(c) [~~Provide proof of~~**]**Successful completion of a minimum of two (2) years advanced clinical training in anesthesiology from a Joint Commission on Accreditation of Healthcare Organization (JCAHO) accredited institution that meets the objectives set forth in part two (2) of the American Dental Association's **[**~~"~~**]**Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry**[**~~"~~**]**; or

(d)[~~(c)~~**]** Provide proof of successful completion of a CODA-accredited postdoctoral training program that affords comprehensive and appropriate training necessary to administer and manage deep sedation and general anesthesia.

Section **11.[**~~10.~~**]** Multiple Application Levels Permitted. Dentists with education and training for more than one (1) level of sedation may mark their levels of qualification on the Application for **[**~~a~~**]**Sedation or Anesthesia Permit, based on the requirements of Sections **6 through 10[**~~4 through 7~~**]** of this administrative regulation.

Section **12.[**~~11.~~**]** Location Requirement. A dentist holding a Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia, conscious sedation, or general anesthesia permit shall advise the board of the name and address of each facility where the dentist intends to or has ceased to administer anesthesia and sedation by submitting the **[**~~"~~**]**Anesthesia and Sedation Permit Location Notification Form**[**~~" which is incorporated by reference~~**]** within ten (10) business days of the change.

Section **13.[**~~12.~~**]** Anesthesia and Sedation Facility Certificates. (1) The owner or operator of a facility shall obtain an Anesthesia and Sedation Facility Certificate from the board for any location at which:

(a) A dentist holding a Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, Deep **Sedation or General[**Sedation/General**]** Anesthesia, conscious sedation, or general anesthesia permit may administer anesthesia and sedation under the permit; or

(b) The treating dentist may allow a physician anesthesiologist, another dentist who holds an anesthesia and sedation permit, or a certified registered nurse anesthetist to administer an anesthetic technique in order to attain a level beyond minimal sedation for the practice of dentistry.

(2) A facility owner or operator desiring to obtain an Anesthesia and Sedation Facility Certificate shall:

(a) Submit an Application for an Anesthesia and Sedation Facility Certificate**[**~~which is incorporated by reference~~**]**;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Successfully pass a facility inspection as outlined in Section **14[**~~10~~**]** of this administration.

(3)[~~(d)~~**]** A dentist **[**that is**]**currently in an advanced training course for sedation may request the Board of Dentistry complete a Sedation Facility Inspection prior to completion of the course.

(4)[~~(3)~~**]** The owner or operator of a facility **shall[**~~may~~**]** not allow an individual to administer anesthesia or sedation unless the individual is permitted to do so under this administrative regulation.

(5)[~~(4)~~**]** The owner or operator of a facility shall maintain for five (5) years for inspection by the board the name and license number of each dentist, physician anesthesiologist, or certified registered nurse anesthetist who has administered anesthesia or sedation at that location.

(6)[~~(5)~~**]** The owner or operator of a facility shall ensure that the facility:

(a) Remains properly equipped in accordance with Section **14[**~~10~~**]** of this administrative regulation; and

(b) Remains properly staffed in accordance with Section **15[**~~11~~**]** of this administrative regulation.

(7)[~~(6)~~**]** In addition to the requirements contained in subsection **(6)[**~~(5)~~**]** of this section, the owner or operator of a facility shall ensure that the facility has appropriate nonexpired emergency and sedation medications.

Section **14.[**~~13.~~**]** Facility Inspection Criteria. (1) To qualify for an Anesthesia and Sedation Facility Certificate, the facility shall pass an evaluation of facility equipment, medications, and clinical records**.**

(a) The following shall be provided by the facility to qualify[~~to include at least the following~~**]**:

1.[~~(a)~~**]** Oxygen and gas delivery system, backup system failsafe;

2.[~~(b)~~**]** Gas storage facility;

3.[~~(c)~~**]** Safety indexed gas system;

4.[~~(d)~~**]** Suction and backup system;

5.[~~(e)~~**]** Auxiliary lighting system;

6.[~~(f)~~**]** Suitability of operating room to include:

a.[~~1.~~**]** Size, which **shall[**~~must~~**]** be at a minimum ten (10) feet by eight (8) feet or eighty (80) square feet;

b.[~~2.~~**]** Operating primary light source and secondary portable back-up source, unless back-up generator is available; **and**

c.[~~3.~~**]** Accessibility by emergency medical staff;

7.[~~(g)~~**]** Recovery area, including oxygen, suction, and visual and electronic monitoring, which may include the operating room;

8. Preoperative medical history and physical evaluation form; and

9. Anesthesia and monitoring equipment checked to insure proper working order.

(b) The following shall be provided by the facility or by an individual listed in Section 22 of this administrative regulation:

1.[~~(h)~~**]** Appropriate **[**~~emergency~~**]**drugs **for each procedure, all of which shall be unexpired, including reversal agents and emergency medications**;

2.[~~(i) Non-expired drugs;~~

~~(j)~~**]** Appropriate devices to maintain an airway with positive pressure ventilation**;**

3.[~~, (k) Preoperative medical history and physical evaluation form;~~

~~(l)~~**]** Anesthesia records, including monitoring and discharge records **and a check sheet.**

a. The check sheet shall be signed by the provider and the dentist and placed in each record.

b. If the dentist is the provider, only the dentist's signature shall be required;

4.[~~(m)~~**]** Monitoring equipment, including pulse oximeter and blood pressure monitoring;

5.[~~(n)~~**]** Electrocardiogram (EKG):

a.[~~1.~~**]** May be present for use by Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, and Moderate Pediatric Sedation permit holders for patients with significant cardiac history; and

b.[~~2.~~**]** Shall be present for use by Deep **Sedation or General[**Sedation/General**]** Anesthesia permit holders**;**

6.[~~.(o) Anesthesia and monitoring equipment to ensure they are in proper working order;~~

~~(p)~~**]** Defibrillator or automated external defibrillator (AED) for **moderate and** Deep **Sedation or General[**Sedation/General**]** Anesthesia permits**[**on adult patients**]**; and

7.[~~(q)~~**]** For deep sedation or general anesthesia in pediatric patients:

a.[~~1.~~**]** A precordial stethoscope; or

b.[~~2.~~**]** A pretracheal stethoscope.

(2) During a facility inspection, inspectors shall:

(a) Examine the facility's equipment to determine if it is in proper working order;

(b) Determine if appropriate emergency drugs are present; and

(c) Determine if emergency drugs are nonexpired.

Section **15.[**~~14.~~**]** Inducing a Level of Sedation for a Patient. (1) Administration of minimal pediatric sedation, moderate enteral sedation, moderate parenteral sedation, moderate pediatric sedation, deep sedation, or general anesthesia to a patient requires at least the following appropriately trained individuals:

(a) The treating dentist;

(b) An individual trained and competent in basic life support (BLS) or its equivalent to assist the treating dentist; and

(c) Another individual trained and competent in BLS or its equivalent in close proximity to assist if needed.

(2) A dentist administering minimal pediatric sedation, moderate enteral sedation, moderate parenteral sedation, moderate pediatric sedation, deep sedation, or general anesthesia to a patient **shall[**~~may~~**]** not leave the site until the patient:

(a) Is conscious;

(b) Is spontaneously breathing;

(c) Has stable vital signs;

(d) Is ambulatory with assistance; and

(e) Is under the care of a responsible adult.

(3) A treating dentist who allows a physician, another dentist, or certified registered nurse anesthetist to administer minimal pediatric sedation, moderate enteral sedation, moderate parenteral sedation, moderate pediatric sedation, deep sedation, or general anesthesia under **Section 22[**~~Sections 18 and 19~~**]** of this administrative regulation shall ensure that the physician, dentist, or certified registered nurse anesthetist **shall[**~~does~~**]** not leave the site until the patient:

(a) Is conscious;

(b) Is spontaneously breathing;

(c) Has stable vital signs;

(d) Is ambulatory with assistance; and

(e) Is under the care of a responsible adult.

Section **16.[**~~15.~~**]** Conscious Sedation Permits and General Anesthesia permits. (1) A dentist who holds a current general anesthesia permit may continue to administer anesthesia and sedation consistent with a Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permit until the expiration date of the permit.

(2) A dentist who holds a current conscious sedation permit and meets the requirements of Section **9(4)[**~~6(4)~~**]** of this administrative regulation may continue to administer anesthesia and sedation consistent with a Moderate Pediatric Sedation permit until the expiration date of the permit.

(3) A dentist who holds a current conscious sedation permit and meets the requirements of Section **8[**~~5~~**]** of this administrative regulation may continue to administer anesthesia and sedation consistent with a Moderate Parenteral Sedation permit until the expiration date of the permit.

(4) During the license renewal process, current general anesthesia permit holders shall convert the permit to a Deep **Sedation or General[**Sedation/General**]** Anesthesia permit.

(5) During the license renewal process, current conscious sedation permit holders shall convert the permit to a minimal pediatric sedation, moderate enteral sedation, moderate parenteral sedation, **or[**~~and/or~~**]** moderate pediatric sedation permit.

(6) A dentist who currently practices enteral sedation without a permit may continue without a permit until January **1[**~~1st~~**]**, 2012 and shall receive a Moderate Enteral Sedation permit by the submission of:

(a) **Twenty-four (24)[**~~24~~**]** hours of didactic education plus **twenty (20)[**~~20~~**]** sedation records documenting their experience; and

(b) Satisfactory completion of an on-site inspection as outlined in Section **14[**~~10~~**]** of this **administrative** regulation.

Section **17.[**~~16.~~**]** Issuance and Expiration of Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation and Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia Permits.

(1) Once an applicant has met the qualifications for obtaining a Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, or Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permit the board shall issue a permit in sequential numerical order.

(2) Each permit issued under this administrative regulation shall expire on the same date as the permit holder's license to practice dentistry.

Section **18.[**~~17.~~**]** Renewal of Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, and Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia Permits. An individual desiring renewal of an active Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, and Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permits shall:

(1) Submit a completed and signed Application for Renewal of **[**~~a~~**]**Sedation or Anesthesia Permit**[**~~which is incorporated by reference~~**]**;

(2) Pay the fee required by 201 KAR 8:520; and

(3) Provide evidence **[**~~satisfactory~~**]**to the board that the applicant meets the continuing education requirements outlined in Section **19[**~~15~~**]** of this administrative regulation.

Section **19.[**~~18.~~**]** Continuing Education Requirements for Renewal of a Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation, or Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia Permit.

(1) An individual desiring renewal of an active Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, or Moderate Pediatric Sedation permit shall:

(a) Complete **at least[**~~not less than~~**]** six (6) hours of clinical continuing education related to sedation or anesthesia in a classroom setting that includes hands-on airway management during the two (2) year term of the permit; or

(b) **[**~~Shall~~**]**Maintain ACLS or PALS certification.

(2) An individual desiring renewal of an active Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permit shall:

(a) Complete not less than four (4) hours of on-sight clinical continuing education related to sedation or anesthesia during the two (2) year term of the permit; and

(b) Maintain ACLS or PALS certification.

(3) Continuing education required by this administrative regulation shall:

(a) Not be used to satisfy other continuing education requirements; and

(b) Be in addition to other continuing education requirements of 201 KAR **8:532[**~~8:530~~**]**.

Section **20.[**~~19.~~**]** Facilities Inspected Prior to **February 1, 2011[**~~the Effective Date of this Amendment~~**]**. A facility owner or operator desiring to obtain an Anesthesia and Sedation Facility Certificate for a facility which passed an inspection by the board prior to **February 1, 2011[**~~the effective date of this amendment~~**]** shall provide**[**~~acceptable~~**]** proof to the board of having passed a facility inspection for the purpose of issuing a conscious sedation or general anesthesia.

Section **21.[**20.**]** Issuance of an Anesthesia and Sedation Facility Certificate. **[**~~(1)~~**]**Once an applicant has met the qualifications for obtaining an Anesthesia and Sedation Facility Certificate the board shall issue a certificate in sequential numerical order.

Section **22. Administration by a Physician Anesthesiologist, Dentist, or Certified Registered Nurse Anesthetist at the Facility of a Treating Dentist. (1) A treating dentist may allow at his or her dental facility, administration of sedation or anesthesia by a:**

(a) Kentucky-licensed physician anesthesiologist or a Kentucky-licensed Certified Registered Nurse Anesthetist; or

(b) Dentist who holds an anesthesia and sedation permit.

(2) Administration by an individual listed in subsection (1)(a) of this section shall:

(a) Comply with this administrative regulation; and

(b) Not require board review.

(3) Nothing in this section shall preclude a dentist from working with a Kentucky-licensed physician anesthesiologist or a Kentucky-licensed Certified Registered Nurse Anesthetist in an ambulatory care center or hospital.[~~21. A treating dentist who desires to allow a physician anesthesiologist or another dentist who holds an anesthesia and sedation permit to administer anesthesia and sedation to a patient at a specific practice location shall comply with Section 9 of this administrative regulation.~~

~~(2) A physician anesthesiologist may administer anesthesia and sedation in accordance with Section 4 of this administrative regulation without the need for review by the board.~~

~~Section 22. Administration by a Certified Registered Nurse Anesthetist. (1) A treating dentist who wishes to allow a certified registered nurse anesthetist to administer anesthesia and sedation to a patient at a specific practice location shall comply with Section 9 of this administrative regulation.~~

~~(2) Nothing under this section shall preclude a dentist from working with a certified registered nurse anesthetist in an ambulatory care center or hospital.~~**]**

Section 23. Morbidity and Mortality Incident Reports. (1) A dentist shall report to the board, in writing, any death caused by or resulting from the dentist's administration of minimal sedation, moderate sedation, deep sedation, or general anesthesia within seven (7) days after its occurrence.

(2) A dentist shall report to the board, in writing, any incident that resulted in hospital in-patient admission caused by or resulting from the dentist's administration of minimal sedation, moderate sedation, deep sedation, or general anesthesia within thirty (30) days after its occurrence.

(3) The written report to the board required in subsections (1) and (2) of this section shall include:

(a) The date of the incident;

(b) The name, age, and address of the patient;

(c) The patient's original complete dental records;

(d) The name and license number of the licensee and the name and address of all other persons present during the incident;

(e) The address where the incident took place;

(f) The preoperative physical condition of the patient;

(g) The type of anesthesia and dosages of drugs administered to the patient;

(h) The techniques used in administering the drugs;

(i) Any adverse occurrence including:

1. The patient's signs and symptoms;

2. The treatment instituted in response to adverse occurrences;

3. The patient's response to the treatment; and

4. The patient's condition on termination of any procedures undertaken; and

(j) A narrative description of the incident including approximate times and evolution of symptoms.

(4) The duties outlined in this section **shall** apply to every dentist **who administers any type of sedation or anesthesia[**~~whether or not the dentist holds a permit~~**]**.

Section 24. Registered Dental Assistant Duties permitted when working with Sedation Permit holders: (1) A registered dental assistant working with Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation and Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permit holders may, under direct supervision:

(a) Apply noninvasive monitors**;[**~~.~~**]**

(b) Perform continuous observation of patients and noninvasive monitors appropriate to the level of sedation, during the preoperative, intra-operative and post-operative (recovery) phases of treatment**;[**.**]**

(c) Report monitoring parameters to the operating dentist on a periodic basis and when changes in monitored parameters occur**;[**~~.~~**]**

(d) Record vital sign measurements in the sedation record**; and[**~~.~~**]**

(e) Remove IV lines (Moderate Parenteral Sedation, Moderate Pediatric Sedation and Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia Permit holders only).

(2) A registered dental assistant working with Minimal Pediatric Sedation, Moderate Enteral Sedation, Moderate Parenteral Sedation, Moderate Pediatric Sedation and Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia Permit holders, may under direct supervision assist in the management of emergencies.

(3) A registered dental assistant working with Moderate Parenteral Sedation, Moderate Pediatric Sedation and Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia Permit holders may, under direct supervision:

(a) Administer medications into an existing IV line upon the verbal order and direct supervision of a dentist with a Moderate Parenteral Sedation, Moderate Pediatric or Deep **Sedation or General[**~~Sedation/General~~**]** Anesthesia permit; and

(b) Establish an IV line under direct supervision if they have completed a course approved by the board of Dentistry in intravenous access.

Section 25**.** Incorporation by Reference. (1) The following material is incorporated by reference:

(a) **"**Application for Sedation or Anesthesia Permit**", February 2011**;

(b) **"**Application for Sedation or Anesthesia Facility Certificate**", February 2011**; and

(c) **"**Sedation of Anesthesia Permit Location Notification Form**", February 2011**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

C. MARK FORT, DMD, President

APPROVED BY AGENCY: March 29, 2011

FILED WITH LRC: May 12, 2011 at 11 a.m.

CONTACT PERSON: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email briank.bishop@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brian K. Bishop, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for issuing permits to dentists for the administration of anesthesia and sedation as mandated by KRS 313.035.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement KRS 313.035, which requires the board to promulgate administrative regulations regarding the requirements governing the use of general anesthesia, deep sedation, and conscious sedation by a licensed dentist.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary about the requirements governing the use of general anesthesia, deep sedation, and conscious sedation by a licensed dentist as required by KRS 313.035.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets out the requirements governing the use of general anesthesia, deep sedation, and conscious sedation by a

licensed dentist as required by KRS 313.035.

(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 changes the statutory authority citation of this administrative regulation, makes technical corrections, clarifies requirements, and makes cardiopulmonary resuscitation requirements and forms incorporated by reference consistent with other agency requirements.

(b) The necessity of the amendment to this administrative regulation: The statutory authority for this administrative regulation has changed, which necessitates an amendment of the statutory citation of this regulation.

(c) How the amendment conforms to the content of the authorizing statute: This administrative regulation provides information necessary about the requirements governing the use of general anesthesia, deep sedation, and conscious sedation by a licensed dentist as required by KRS 313.035.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation provides information necessary about the requirements governing the use of general anesthesia, deep sedation, and conscious sedation by a licensed dentist as required by KRS 313.035. The amended forms improve agency efficiency by ensuring consistency across forms.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact 268 current anesthesia and sedation permit holders and approximately 20 new applicants per year. Additionally, the Board of Dentistry will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: There will be no new impact on the 268 current anesthesia and sedation permit holders and approximately 20 new applicants per year.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no new actions for licensees to take in order to comply with this administrative regulation. The Kentucky Board of Dentistry is charged by KRS 313.035regulate the practice of dentistry in the Commonwealth.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): From 201 KAR 8:520: Section 1. Dentists.

The initial fee for a dental anesthesia or sedation permit shall be $250.

The renewal fee for a dental anesthesia or sedation permit shall be $75 and is in addition to the renewal fee for a general dental license.

The initial fee for an anesthesia or sedation facility certificate shall be $250.

The renewal fee for an anesthesia or sedation facility certificate shall be $75.

The board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 - 2011 an allotment of $705,400 and for FY 2011 - 2012 an allotment of $714,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees who are in compliance will have the legal ability to administer general anesthesia, conscious sedation, and deep sedation in the Commonwealth of Kentucky. The Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for its licensees to legally practice dentistry in the Commonwealth.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 - 2011 an allotment of $705,400 and for FY 2011 - 2012 an allotment of $714,000. The Board of Dentistry receives no monies from the General Fund.

(a) Initially: No additional costs are expected.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this regulation are fully funded by licensing fees paid by dentists as part of compliance with 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: The fees found in 201 KAR 8:520 make the agency financially solvent.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 313 et seq.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no new net fiscal affect on the Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB 1, 2010 Extraordinary Session of the GA.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB 1, 2010 Extraordinary Session of the GA.

(c) How much will it cost to administer this program for the first year? FY 2010 - 2011 as allocated in HB 1 and 2010 Extraordinary Session of the GA is $705,400.

(d) How much will it cost to administer this program for subsequent years? FY 2011 - 2012 as allocated in HB 1 and 2010 Extraordinary Session of the GA is $714,000.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
Division of Community and Mental Health Services
(As Amended at ARRS, May 10, 2011)

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

RELATES TO: KRS 15A.065, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Juvenile Services in Community", **May 13[**~~February 15~~**]**, 2011[~~April 12, 2006~~], is incorporated by reference and includes the following:

600 Policy Definitions (Amended **5/13/11[**~~2/15/11~~**]**)[~~Initial Contact and Court Support (Amended 12/15/05)~~]
601 Initial Contact and Court Support for Public Offenders (Amended **5/13/11[**~~2/15/11~~**]**)
601.1 Initial Contact and Court Support for Youthful Offenders (Amended **5/13/11[**~~2/15/11~~**]**)[~~Case Registration and Case Management (Amended 12/15/05)~~]
602 Individual Client Record (Amended **5/13/11[**~~2/15/11~~**]**)[~~Service Complaints (Amended 12/15/05)~~]
603 Service Complaints (Amended **5/13/11[**~~2/15/11~~**]**)[~~Children's Benefits (Amended 12/15/05)~~
~~603.1 Title IV-E: Federal Foster Care Maintenance Payments (Amended 12/15/05)~~
~~603.2 Trust Funds (Amended 12/15/05)~~]
604 Individual Treatment Plans (Amended **5/13/11[**~~2/15/11~~**]** [~~12/15/05~~])
605 Community Supervision (Amended **5/13/11[**~~2/15/11~~**]**)[~~Juvenile Service Case Records (Amended 3/15/06)~~
~~605.1 Running Records (Amended 12/15/05)~~
~~605.2 Critical Incident Reports (Amended 12/15/05)~~]
606 Probation of Public Offenders (Amended **5/13/11[**~~2/15/11~~**]**)[~~Transportation of Committed Youth (Amended 12/15/05)~~]
607 Commitment of Public Offenders (Amended **5/13/11)[**~~2/15/11~~**]** [~~Probation (Amended 12/15/05)~~
~~607.1 Revocation of Probation (Amended 12/15/05)~~
~~607.2 Termination of Probation (Amended 3/15/06)~~]
608 Drug Screening and Testing (Amended **5/13/11[**~~2/15/11~~**]**)[~~Youthful Offender Shock Probation (Amended 12/15/05)~~]
609 Children's Benefits (Amended 2/15/11)[~~Referral for Out-of-Home Placement (Amended 12/15/05)~~]
609.1 Title IV-E Foster Care Maintenance Payments (Amended **5/13/11[**~~2/15/11~~**]**)[~~Youth Awaiting Out-of-Home Placement (Amended 12/15/05)~~]
609.2 Trust Funds (Amended 2/15/11)[~~Services to Youth in Out-of-Home Placement (Amended 4/12/06)~~]
610 Transportation of Committed Youth (Amended 2/15/11)[~~Authorized Leave for Youth in Out-of-Home Placement (Amended 3/15/06)~~]
610.1 Out-of-State Travel (Amended 2/15/11)[~~Youth AWOL/Escape (Amended 3/15/06)~~]
611 Electronic Monitoring (Amended 2/15/11)[~~Mental Health Services (Amended 12/15/05)~~
~~611.1 Mental Health Emergencies (Amended 12/15/05)~~]
612 Authorized Leave for Public Offenders and Youthful Offenders in Placement (**Amended 5/13/11[**~~Added 2/15/11~~**]**)
613 Supervised Placement Revocation (**Amended 5/13/11[**~~Added 2/15/11~~**]**)
614 Intensive Aftercare Program (Added 2/15/11)
615 Juvenile Intensive Supervision Team (JIST) (Added 2/15/11)
616 Youthful Offenders-Confined, Shock Probated, and Transferred to the Department of Corrections (**Amended 5/13/11[**~~Added 2/15/11~~**]**)
616.1 **Probation[**~~Parole~~**]** of Youthful Offenders (Added 2/15/11)
616.2 Parole of Youthful Offenders
617 Incident Reports (Amended 2/15/11)[~~Community Supervision (Amended 12/15/05)~~
~~617.1 Intensive Aftercare Program (Amended 12/15/05)~~]
618 AWOL or Escape (Amended **5/13/11[**~~2/15/11~~**]**)[~~Juvenile Intensive Supervision Team (JIST) (Amended 12/15/05)~~]
620 Use of Force and Searches (Amended **5/13/11[**~~2/15/11~~**]**)[
621 Mental Health Services, Referrals, and Psychiatric Hospitalization (Amended **5/13/11[**~~2/15/11~~**]**)
622 Community Mental Health Operations (**Amended 5/13/11[**~~Added 2/15/11~~**]**)
623 Health and Safety for Community and Mental Health Services (**Amended 5/13/11[**~~Added 2/15/11~~**]**)[~~Supervised Placement Revocation (Amended 12/15/05)~~
~~621 Searches (Amended 12/15/05)~~
~~626 Sex Offender Treatment (Amended 3/15/06)~~
~~629 Administrative Discharge from Commitment (Amended 3/15/06)~~]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.

J. RONALD HAWS, Commissioner
APPROVED BY AGENCY: February 15, 2011
FILED WITH LRC: February 15, 2011 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 21, 11, at 9 a.m., at the Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by March 14, 11, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. A transcript of this 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 31, 11. 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: Joslyn Olinger Glover, Staff Attorney, Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-2738, fax (502) 573-0836.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joslyn Olinger Glover, Staff Attorney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the operation of the Department of Juvenile Justice, including the rights and responsibilities of the Department of Juvenile Justice employees and the community populations. This regulation and the material incorporated by reference appear to be significantly changed since the June 2006 filing. While changes have taken place, many of the changes are the result of "housekeeping" to alter the order of information contained within the regulation.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 15A.065, 15A.067, 605.150, 635.095, and 635.100.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation governs every aspect of the program services for the community population of the Department of Juvenile Justice.

(d) How this administrative regulation currently assists, or will assist, in the effective administration of the statutes: By providing clear and concise direction and information to the Department of

Juvenile Justice employees and the community population as to their duties, rights, privileges, and responsibilities.

(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 shall bring the Department of Juvenile Justice into compliance with ACA Standards and show actual practice of the agency.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 15A.065, 15A.067, 605.150, 635.095, and 635.100.

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Department of Juvenile Justice.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will help the Department of Juvenile Justice to operate more efficiently.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 250 employees of the Department of Juvenile Justice, approximately 1,848 youth in all programs, and all visitors and volunteers to Department of Juvenile Justice.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: By providing and implementing these policies and procedures, the Department of Juvenile Justice will be providing services more effectively and consistently.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The agency employees will provide services to the youth in all programs in accordance with the procedures outlined in the regulation and the materials incorporated by reference. The youth in all programs will receive services in accordance with the procedures outlined in the regulation and materials incorporated by reference. All visitors and volunteers will be engaged in accordance with the regulation and materials incorporated by reference.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3) In complying with this administrative regulation, no monetary costs will be incurred by the youth, the visitors or volunteers, or the Department of Juvenile Justice employees. All costs of implementation of this regulation and materials incorporated by reference will be paid out of budgeted monies by the Department of Juvenile Justice.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Youth shall receive services more effectively and efficiently. Department of Juvenile Justice employees, visitors, and volunteers will more clearly and concisely understand the services to be provided by the Department of Juvenile Justice.

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

(a) Initially: $5,000 for training staff.

(b) On a continuing basis: $5,000 for training staff.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None

(8) State whether or not this administrative regulation established any fees, or directly or indirectly, increased any fees: None

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated, as well as the Sections 2 and 3 of the Kentucky Constitution.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Juvenile Justice.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Response: KRS 15A.065, 15A.067, 15A.160, 15A.210, 15A.305(5), 200.115, 605.150, 635.095, 635.100, 640.120, and 645.250.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Response: See narrative provided below.

(d) How much will it cost to administer this program for subsequent years? See narrative provided below.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: This regulation will provide a clear and concise policies and procedures for all youth receiving services from the Department of Juvenile Justice, and reflect the treatment and practice of the agency. The only expense regarding this regulation is the cost of staff training, which for the first year is approximately $5,000.

PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amended After Comments)

811 KAR 2:190. Kentucky Quarter Horse, Appaloosa and Arabian Development Fund.

RELEATES TO: KRS 230.215, 230.225, 230.443, 230.445

STATUTORY AUTHORITY: KRS 230.215, 230.260, 230.445

NECESSITY, FUNCTION AND CONFORMITY: KRS 230.215 and 230.260 authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.445 establishes the Kentucky Quarter Horse, Appaloosa, and Arabian Development Fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of purses and payments in these races.

Section 1. Definitions. (1) "Appaloosa" is defined in 811 KAR 2:010.

(2) "Arabian" is defined in 811 KAR 2:010.

(3) **"Breeder", means the owner of the dam at the time of service.**

(4) "Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.

(5)[~~(4)~~**]** "Kentucky bred" means a quarter horse or appaloosa,

whose sire is a quarter horse, appaloosa, or thoroughbred currently registered with the KQHAADF, or a quarter horse or appaloosa whose dam is a quarter horse, appaloosa, or thoroughbred currently registered with the KQHAADF, or an Arabian whose sire and dam are Arabians currently registered with the KQHAADF. **Horses must meet all other requirements of this administrative regulation in order to be considered to be a Kentucky bred.**

(6)[~~(5)~~**]** "Kentucky Quarter Horse, Appaloosa and Arabian Development Fund" means the trust and revolving fund established by KRS 230.445.

(7)[~~(6)~~**]** "KQHAADF" means the Kentucky Quarter Horse, Appaloosa and Arabian Development Fund.

(8)[~~(7)~~**]** "Kentucky Quarter Horse Racing Association Stallion Auction" means the auction of stallion seasons offered by the Kentucky Quarter Horse Racing Association.

(9)[~~(8)~~**]** "Quarter horse" is defined in 811 KAR 2:010.

Section 2. Advisory Committee. (1) The proposed distribution of money for KQHAADF funded races shall be reviewed and addressed annually, not later than December 31 of each calendar year, by an advisory committee consisting of at least one (1) representative of each of the following:

(a) The racing commission;

(b) The licensed racing associations in Kentucky that host quarter horse, appaloosa, or Arabian racing;

(c) The owner of a stallion registered with the KQHAADF;

(d) The owner of a mare registered with the KQHAADF; and

(e) One member of the Kentucky Quarter Horse Racing Association that resides in Kentucky, selected by that organization's board of directors.

(2) The final determination regarding the distribution of money from the KQHAADF shall be made by the commission.

Section 3. Stallion Eligibility. (1) In order for a stallion's progeny to be eligible to earn KQHAADF money, the stallion shall be registered with the KQHAADF on or before December 31 of the year prior to the breeding year.

(2) In order to be eligible to be registered with the KQHAADF, a stallion shall:

(a) Be domiciled in Kentucky continuously from its first cover of the breeding season until its last cover of the breeding season; or

(b) Have a breeding season purchased through the Kentucky Quarter Horse Racing Association Stallion Auction.

(3) If a KQHAADF registered stallion leaves Kentucky to breed a mare, his registration for that year shall be revoked and his progeny shall not be eligible to register with the KQHAADF.

(4) A stallion shall be registered the KQHAADF by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/ Arabian Stallion Registration, KHRC 190-1 (2/11); and

(b) Paying a registration fee of $100.

Section 4. Broodmare Eligibility. (1) In order for a broodmare's progeny to be eligible to earn KQHAADF money, the broodmare shall be registered with the KQHAADF on or before December 31 prior to the breeding year.

(2) In order to be eligible to be registered with the KQHAADF, a broodmare must be domiciled in Kentucky continuously from December 31 prior to the breeding year until delivery of her foal.

(3) A broodmare shall be registered the KQHAADF by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/Arabian Broodmare Registration, KHRC 190-2 (2/11); and

(b) Paying a registration fee of twenty-five (25) dollars.

(4) Broodmares that have competed in a race during the breeding year and are registered with the Kentucky Quarter Horse Racing Association as racing stock shall be registered as breeding stock prior to being bred. The registration shall be accompanied by a registration fee of twenty-five (25) dollars.

Section 5. Racing Stock Nomination. (1) Except as set forth in subsection (3) of this section, in order for racing stock to be eligible to earn KQHAADF money, it shall be nominated to the KQHAADF on or before December 31 of its three (3) year-old year by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/ Arabian Racing Stock Nomination, KHRC 190-3 (2/11); and

(b) Paying a nomination fee of twenty-five (25) dollars if nominating as a weanling, fifty (50) dollars if nominating as a yearling, or $100 if nominating as a two (2) or three (3) year-old.

(2) Foals that are the product of an embryo transfer shall be permitted to be nominated to the KQHAADF if the recipient mare is domiciled in Kentucky as set forth in Section 4 of this administrative regulation. If a donor mare produces more than one (1) foal in a breeding season, only the first born foal will be eligible to be nominated to the KQHAADF.

(3) Until December 31, 2012, racing stock of any age shall be eligible to be nominated to the KQHAADF and to participate in races, a part of the purse for which is provided by money from the KQHAADF. Any such horse shall be nominated by:

(a) Completing and filing with the commission a Quarter Horse/Appaloosa/Arabian Racing Stock Nomination, KHRC 190-3 (2/11);

(b) Paying a nomination fee of fifty (50) dollars; and

(c) Including the following with the nomination:

1. DNA parentage verification;

2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;

3. An American Quarter Horse Association shipped semen report or a stallion breeders certificate demonstrating that the horse was bred in Kentucky; and

4. Mare pregnancy verification and care records from a licensed veterinarian showing that the dam was domiciled in Kentucky during the entirety of her pregnancy.

Section 6. Kentucky Quarter Horse Racing Association Stallion Auction. (1) A stallion not domiciled in Kentucky continuously from its first cover of the breeding season until its last cover of the breeding season shall become eligible to be registered with the KQHAADF if its ownership donates one (1) breeding season to the Kentucky Quarter Horse Racing Association Stallion Auction and that breeding season is sold at the auction. The eligibility shall pertain only to the year in which the breeding season is donated.

(2) **A breeding season shall bring no less than fifty (50) percent of its advertised value in order to sell at the stallion auction.**

(3) Any foal that is the result of breeding an eligible mare with a stallion that had a breeding season purchased through the Kentucky Quarter Horse Racing Association Stallion Auction Program shall be eligible to be nominated to the KQHAADF, if all other criteria described in this administrative regulation are satisfied.

Section 7. Compliance. (1) The commission shall be the official registrar for the KQHAADF.

(2) Questions as to eligibility, registration, nomination, or breeding of a Kentucky bred horse shall be decided exclusively by the commission.

(3) The commission may demand and inspect the records pertaining to any horse registered with or nominated to the KQHAADF and may conduct on-site visits to verify the domicile of any such horse.

(4) Any person who knowingly fails to disclose or knowingly falsifies any information required in the registration process for the KQHAADF may be disqualified and excluded from participation in the fund.

Section 8. Distribution of Funds. (1) At a scheduled meeting of the commission, the commission shall, based upon the advice of the advisory committee established by Section 2 of this administrative regulation:

(a) Establish the distribution of funds for KQHAADF funded races for the upcoming year;

(b) Establish the conditions and rules for the KQHAADF funded races; and

(c) Authorize expenditures at a time it designates.

(2) The racing dates for KQHAADF funded races shall be issued after the track has established its race dates.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Quarter Horse/Appaloosa/Arabian Stallion Registration", KHRC 190-1, 2/11;

(b) "Quarter Horse/Appaloosa/Arabian Broodmare Registration", KHRC 190-2, **5/11[**~~2/11~~**]**; and

(c) "Quarter Horse/Appaloosa/Arabian Racing Stock Nomination", KHRC 190-3, 2/11.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material may also be obtained at the commission's Web site, www.khrc.ky.gov.

ROBERT M. BECK, JR., Chairman
ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: May 13, 2011

FILED WITH LRC: May 13, 2011 at noon

CONTACT PERSON: Timothy A. West, Assistant General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Timothy A. West, Assistant General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation provides the rules governing eligibility for participation in the Kentucky Quarter Horse, Appaloosa and Arabian Development Fund ("KQHAADF") and the administration of that fund.

(b) The necessity of this administrative regulation: KRS 230.445 requires the Kentucky Horse Racing Commission ("KHRC") to promulgate administrative regulations regarding eligibility for participation in the KQHAADF and the administration of that fund. This regulation fulfills that statutory mandate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.455(2) establishes the KQHAADF and requires the KHRC to "use the development fund to promote races and to provide purses for races for horses bred and foaled in the Commonwealth" and to "provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed tracks within Kentucky conducting quarter horse, Appaloosa, or Arabian horse racing." This regulation establishes and advisory committee to make recommendations to the KHRC regarding conditions for eligibility to earn KQHAADF money, conditions for KQHAADF races, and the distribution of money from the fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the specific rules for eligibility to earn KQHAADF money, conditions for KQHAADF races, and the distribution of money from the fund.

(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: This administrative regulation will affect those persons who breed and race quarter horses, appaloosas and Arabians in the Commonwealth of Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Persons who breed and race quarter horses, appaloosas and Arabian in the Commonwealth of Kentucky will have to comply with the domicile requirements and pay the registration fees set forth in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It will cost $100 to register a stallion to the KQHAADF, $25 to register a broodmare, and from $25 - $100 to register racing stock, depending on the age of the horse at the time of registration.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Persons who breed and race quarter horses, appaloosas and Arabian in the Commonwealth of Kentucky will have an opportunity to earn money from the fund when competing in KQHAADF races.

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

(a) Initially: The KHRC does not anticipate incurring significant costs in administering the KQHAADF. However, the costs will be dependent on the number of participants in the program. As this is a new program, it is difficult to estimate what the initial level of participation will be. If the program is successful, and the number of participants increases, there will be a corresponding increase in the costs of administration.

(b) On a continuing basis: See answer to (5)(a).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this administrative regulation will be funded out of the KHRC's operating budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The regulation establishes registration and nomination fees to cover the cost of administering the fund. No increase in funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation establishes registration fees for stallions and broodmares and nomination fees for racing stock.

(9) TIERING: Is tiering applied? Tiering is not applied. All aspects of this regulation will be applied equally to the affected parties.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The KHRC.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.445

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? It is impossible to say, although the KHRC does not expect that the initial costs of administration will be significant. The primary expenses associated with this regulation are processing registrations and nominations, and checking the domicile of registered stallions and broodmares. Right now, there is very little quarter horse and Arabian racing in the Commonwealth and no appaloosa racing whatsoever. As such, the KHRC does not anticipate that there will be a large number of participants. However, if the program is successful and the number of participants increases, there will be a corresponding increase in the costs processing applica-

tions and making site visits to verify the domicile of registered horses.

(d) How much will it cost to administer this program for subsequent years? See answer to 4(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Provider Operations
(Amended After Comments)

907 KAR 1:715. School-based health services.

RELATES TO: KRS 156.070, 205.520, 605.115, 314.470, 20 U.S.C. 33, 34 C.F.R. 300.320, 300.321, 300.324, 42 C.F.R. 440.110

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(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 Medicaid services to Kentucky's indigent citizenry. This administrative regulation establishes the provisions relating to school-based health services (SBHS) for which payment shall be made by the Medicaid Program on behalf of Medicaid recipients who are eligible for school-based health services under 20 U.S.C. Chapter 33.

Section 1. Definitions. (1) "Admissions and release committee" or "ARC" means a group of individuals which meets the:

(a) ARC requirements established in 707 KAR 1:320; and

(b) IEP team requirements established in 34 C.F.R. 300.321.

(2) "Advanced registered nurse practitioner" is defined by KRS 314.011(7).

(3) "Assistive technology device" means an item, piece of equipment, or product system that is:

(a) Used to increase, maintain, or improve the functional capabilities of a child with a disability; and

(b) Medically necessary to implement the health services in the child's individualized education program.

(4) **"Board Certified Assistant Behavior Analyst" or "BCABA" means an individual who:**

(a) Has met all of the BCABA requirements established by the Behavior Analyst Certification Board®, Inc.; and

(b) Is currently recognized by the Behavior Analyst Certification Board®, Inc. as a BCABA.

(5) "Board Certified Behavior Analyst" or "BCBA" means an individual who:

(a) Has met all of the BCABA requirements established by the Behavior Analyst Certification Board®, Inc.; and

(b) Is currently recognized by the Behavior Analyst Certification Board®, Inc. as a BCABA.

(6) "Certified psychologist" means an individual who holds the title of certified psychologist pursuant to KRS 319.056.

(7)[~~(5)~~**]** "Certified psychologist with autonomous functioning" means an individual who holds the title of certified psychologist with autonomous functioning pursuant to KRS 319.056.

(8)[~~(6)~~**]** "Certified social worker" means an individual with a certified social worker license pursuant to KRS 335.080.

(9)[~~(7)~~**]** "Department of Education" means the Commonwealth of Kentucky, Department of Education.

(10)[~~(8)~~**]** "IDEA" means the Individuals with Disabilities Education Act, 20 U.S.C. Chapter 33.

(11)[~~(9)~~**]** "IEP team" is defined by 34 C.F.R. 300.321.

(12)[~~(10)~~**]** "Incidental interpreter services" means the interpreter services that are necessary to allow the child to benefit from other covered school-based health services.

(13)[~~(11)~~**]** "Individualized Education Program" or "IEP" is defined by 34 C.F.R. 300.320.

(14)[~~(12)~~**]** "Licensed clinical social worker" means an individual possessing a current licensed clinical social worker license pursuant to KRS 335.100.

(15)[~~(13)~~**]** "Licensed practical nurse" is defined by KRS 314.011(9).

(16)[~~(14)~~**]** "Licensed professional clinical counselor" is defined by KRS 335.500(3).

(17)[~~(15)~~**]** "Licensed professional clinical counselor associate" is defined by KRS 335.500(4).

(18)[~~(16)~~**]** "Licensed psychological associate" means an individual holding the title of licensed psychological associate pursuant to KRS 319.064.

(19)[~~(17)~~**]** "Licensed psychological practitioner" means an individual who meets the licensed psychological practitioner requirements established in KRS 319.053.

(20)[~~(18)~~**]** "Licensed psychologist" means a psychologist who holds a licensed psychologist license pursuant to KRS 319.010(5).

(21)[~~(19)~~**]** "Licensed social worker" means an individual possessing a current licensed social worker license pursuant to KRS 335.090.

(22)[~~(20)~~**]** "Occupational therapist" is defined by KRS 319A.030(3).

(23)[~~(21)~~**]** "Occupational therapy assistant" is defined by KRS 319A.030(4).

(24)[~~(22)~~**]** "Physical therapist" is defined by KRS 327.010(2).

(25)[~~(23)~~**]** "Physical therapist assistant" means an individual:

(a) With a current credential from the Kentucky Board of Physical Therapy; and

(b) Working under the supervision of a physical therapist.

(26)[~~(24)~~**]** "Psychologist" is defined by KRS 319.010(8).

(27)[~~(25)~~**]** "Recipient" is defined by KRS 205.8451(9).

(28)[~~(26)~~**]** "Registered nurse" is defined by KRS 314.011(5).

(29)[~~(27)~~**]** "Respiratory care practitioner" is defined by KRS 314A.010(3).

(30)[~~(28)~~**]** "SBHS" or "School-based health services" or means medically-necessary health services;

(a) Provided for in 907 KAR 1:034; and

(b) Specified in an individualized education program for a child determined to be eligible under the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. Chapter 33, and 707 KAR Chapter 1.

(31)[~~(29)~~**]** "SBHS recipient" means a recipient who:

(a) Is under the age of twenty-one (21) years; and

(b) Receives school-based health services.

(32)[~~(30)~~**]** "Special transportation" means a special arrangement, special equipment, or a special vehicle:

(a) Which is appropriate for the child's disability; and

(b) The need for which is described in the child's individualized education plan.

Section 2. Provider Requirements. (1) A school district that requests to participate as a school-based health care provider shall not be qualified to provide school-based health services:

(a) Until it has enrolled as a Medicaid provider pursuant to 907 KAR 1:672;

(b) Until it has been certified by the Department of Education to provide school-based health services; and

(c) Unless it is currently compliant with the Medicaid provider participation requirements established in 907 KAR 1:671.

(2) The Department of Education shall grant certification to a district that agrees to:

(a) Provide services as:

1. Required by 20 U.S.C. Chapter 33; and

2. Specified in an approved individualized education program developed by an ARC that includes a multidisciplinary team of professionals acting within their scope of practice;

(b) Comply with the service provision requirements mandated by 20 U.S.C. Chapter 33 and in accordance with 707 KAR 1:320;

(c) Employ or contract with health care professionals who meet the qualifications specified in Section 4 of this administrative regulation;

(d) Provide the Department of Education with a proposed quality assurance outline;

(e) Maintain and submit to the Department of Education all required records and reports to ensure compliance with 20 U.S.C. Chapter 33; and

(f) Provide the Department of Education with a list of school-based health services that the school district provides. This list shall contain the following information for employees and contractors providing the services:

1. Name; and

2. Credentials[~~,~~

~~3. Hourly salary;~~

~~4. Hourly fringe benefit costs; and~~

~~5. Hourly contract amounts~~].

(3) The Department for Medicaid Services shall grant Medicaid enrollment to a provider who:

(a) Meets the criteria established in subsections (1) and (2) of this section;

(b) Works within his or her scope of practice as established in Kentucky law; and

(c) Is recommended by the Department of Education for certification and enrollment in the Kentucky Medicaid Program as a provider of school-based health services.

(4) A Medicaid school-based health services provider shall:

(a) Submit to an annual review by the Department of Education to ensure
compliance with the standards for continued participation as a Medicaid provider;

(b) Have an on-site survey completed by the Department of Education as necessary to determine compliance with the Medicaid Program;

(c) Take action as specified by the Department of Education to correct a deficiency if found to be in noncompliance with the provision of services outlined in 707 KAR 1:320 or this administrative regulation;

(d) Agree to implement a quality assurance program approved by the Department of Education for the provision of Medicaid-covered services within one (1) year from the date the Department of Education recommends enrollment to the Medicaid Program;

(e) Maintain a current list of school-based health services that the school district provides. The list shall contain the information listed in subsection (2)(f) of this section for an employee or contractor providing the services;

(f) Maintain records on each SBHS recipient who receives services reimbursed by Medicaid. The records shall:

1. Identify the child, services performed, and quantity or units of service;

2. Be signed and dated by the professional who provided or supervised the service;

3. Be legible with statements written in an objective manner;

4. Indicate progress being made, any change in treatment, and response to the treatment; and

5. Be retained for a minimum of five (5) years plus any additional time required by law; and

(g) Comply with 907 KAR 1:671 and 1:672.

Section 3. Covered Services. (1) A school-based health service that is included in an IEP authorized by an IEP team or ARC and provided in accordance with this administrative regulation shall:

(a) Be considered medically necessary; and

(b) Not be subject to additional Medicaid prior-authorization requirements.

(2) The following services shall be covered if provided to address a medical or mental disability and to assist an individual in benefiting from special education programming which is included, authorized, and provided in accordance with the individualized education program:

(a) Nursing;

(b) Audiology;

(c) Speech and language;

(d) Occupational therapy;

(e) Physical therapy;

(f) Behavioral health services[~~Mental health~~];

(g) Incidental interpreter services provided in conjunction with another covered service;

(h) Orientation and mobility services;

(i) Respiratory therapy;

(j) Assistive technology devices and appropriate related evaluations if the devices purchased by the Medicaid Program become the property of the SBHS recipient; and

(k) Special transportation with the following limitations:

1. A special transportation service shall be limited to transporting an SBHS recipient to receive a Medicaid-covered service at:

a. A site other than the school building in which the child is enrolled for general education purposes;

b. The child's home if the child is a home-bound student and receives general education services at home; or

c. The school building where the child receives the Medicaid-covered service. Special transportation to the school building from the child's home or other site and return special transportation from the school building to the child's home or other site shall be covered for the day the Medicaid-covered service is provided at the school building;

2. A special transportation service shall be provided using a type of vehicle which:

a. Meets the specifications established by KRS 156.153, 702 KAR 5:060, and 702 KAR 5:130; and

b. Is appropriate for the child's disability as determined by the ARC in accordance with 702 KAR 5:100; and

3. A special transportation service provided by a member of an SBHS recipient's household to the SBHS recipient shall not be covered unless the SBHS recipient's household member is an employee of the school district.

(3) A covered school-based health service:

(a) Shall not be limited by site of service;

(b) Shall be provided in:

1. A group of no more than six (6); or

2. In a one-on-one situation; and

(c) May include:

1. An assessment or evaluation if the assessment or evaluation is stated in the SBHS recipient's IEP, except as allowed in subsection (4) of this section; or

2. A treatment component if the treatment component is stated in the SBHS recipient's IEP.

(4) An assessment or evaluation conducted prior to the establishment of an individualized education program shall be covered if the individualized education program is subsequently developed and implemented as a result of the assessment or evaluation.

Section 4. Staffing Requirements. School-based health services shall be reimbursable if provided by a professional acting within his or her scope of practice as defined by state law and as provided in this section.

(1) A nursing service shall be provided by:

(a) An advanced registered nurse practitioner with a current license from the Kentucky Board of Nursing;

(b) A registered nurse;

1. With a current license from the Kentucky Board of Nursing; or

2. Authorized to provide a nursing service;

(c) A licensed practical nurse:

1. With a current license issued by the Kentucky Board of Nursing, under appropriate supervision and delegated authority; or

2. Authorized to provide a nursing service pursuant to KRS 314.470; or

(d) A health aide if:

1. The aide is under the supervision of a specific registered nurse or advanced registered nurse practitioner;

2. The supervising registered nurse or advanced registered nurse practitioner has trained the aide for the specific SBHS nursing service for the specific recipient; and

3. The supervising registered nurse or advanced registered nurse practitioner has verified in writing that the aide has appropriate training and skills to perform the specific service in a safe, effective manner.

(2) Audiology services shall be provided by an audiologist with a current license from the Kentucky Board of Speech-Language

Pathology and Audiology.

(3) Speech and language services shall be provided by[~~:~~

~~(a)~~] a speech-language pathologist who has a current certificate of clinical competence issued by the American Speech-Language-Hearing Association[~~:~~

~~1. Has a current license from the Kentucky Board of Speech-Language Pathology and Audiology;~~

~~2. Has a master's level professional certification issued by the Kentucky Education Professional Standards Board after January 1, 2001; or~~

~~3. Has a certificate of clinical competence issued by the American Speech-Language-Hearing Association; or~~

~~4. Is working under the supervision of an individual who:~~

~~a. Has a current license from the Kentucky Board of Speech-Language Pathology and Audiology;~~

~~b. Has a master's level professional certification issued by the Kentucky Education Professional Standards Board after January 1, 2001; or~~

~~c. Has a certificate of clinical competence issued by the American Speech-Language-Hearing Association; or~~

~~(b) A speech-language pathology assistant who:~~

~~1. Has:~~

~~a. A current license from the Kentucky Board of Speech-Language Pathology and Audiology; or~~

~~b. A baccalaureate-level certification issued by the Kentucky Educational Professional Standards Board; and~~

~~2. Is under the supervision of a licensed or certified masters-level speech-language pathologist in accordance with KRS 334A.033, 334A.080, and 161.053~~].

(4) Occupational therapy services shall be provided by:

(a) An occupational therapist:

(b) An occupational therapy assistant; or

(c) An unlicensed occupational therapy aide who:

1. Provides supportive services to occupational therapists and occupational therapy assistants; and

2. Is under the direct supervision of a licensed occupational therapist.

(5) Physical therapy services shall be provided by:

(a) A physical therapist;

(b) A physical therapist assistant;

(c) An individual with a temporary permit to perform physical therapy in Kentucky pursuant to 327.010(5);

(d) A student of physical therapy under the supervision of a physical therapist; or

(e) Physical therapy supportive personnel under the direct on-site supervision of a:

1. Physical therapist; or

2. Physical therapist assistant in accordance with the provisions of 201 KAR 22:053.

(6) A behavioral[~~mental~~] health service shall be provided by:

(a) A licensed psychologist;

(b) A licensed psychological practitioner;

(c) A certified psychologist with autonomous functioning;

(d) A certified psychologist;

(e) A licensed psychological associate;

(f) A licensed clinical social worker;

(g) A licensed social worker;

(h) A certified social worker;

(i) An advanced registered nurse practitioner who has a specialty area in accordance with the American Nurses' Association's Scope and Standards of Psychiatric Mental Health Nursing Practice in accordance with 201 KAR 20:057;

(j) A licensed professional clinical counselor;**[~~or~~]**

(k) A licensed professional clinical counselor associate**:**

(l) A board certified behavior analyst; or

(m) A board certified assistant behavior analyst.

(7) An incidental interpreter service shall be provided by an interpreter licensed by the Kentucky Board of Interpreters for the Deaf and Hard of Hearing pursuant to KRS 309.301.

(8) Orientation and mobility services shall be provided by an orientation and mobility specialist certified by the:

(a) Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP); or

(b) National Blindness Professional Certification Board (NBPCB).

(9) Respiratory therapy services shall be provided by a respiratory care practitioner.

Section 5. Reimbursement. (1) Reimbursement for SBHS shall be provided in accordance with the school-based health service reimbursement provisions established in 907 KAR 1:035.

(2) A school-based health services provider shall certify the expenditure of state or local funds for school-based health services in accordance with 702 KAR 3:285.

Section 6. Individualized Education Program. An IEP shall:

(1) Be developed, reviewed, and revised in accordance with:

(a) 707 KAR 1:320; and

(b) 34 C.F.R. 300.324; and

(2) Not be considered authorized unless it has been approved by an IEP team.

NEVILLE WISE, Acting Commissioner
JANIE MILLER, Secretary

APPROVED BY AGENCY: May 10, 2011

FILED WITH LRC: May 11, 2011 at Noon

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Linda Proctor (502) 564-6890, Stephanie Mack (502) 564-6890, or Stuart Owen (502) 564-4321

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes Medicaid school-based health service policies.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish school-based health service policies in concert with 20 U.S.C. 33.

(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 school-based health service policies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing school-based health service policies.

(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 changes the speech and language provider requirements. Currently, to be eligible to provide Medicaid speech and language services, a speech language pathologist has to have a current licensed from the Kentucky Board of Speech-Language Pathology and Audiology, a master's level certification issued (after January 1, 2001) by the Kentucky Education Professional Standards Board, or a certificate of clinical competence issued by the American Speech-Language Hearing Association; or be working under the supervision of someone who meets the aforementioned requirements. With the amendment, a speech-language pathologist will have to have a current license from the Kentucky Board of Speech-Language Pathology and Audiology and a certificate of clinical competence issued by the American Speech-Language Hearing Association. Additionally, the Department for Medicaid Services (DMS) is changing the term mental health services to behavioral health to ensure consistency with the corresponding state plan amendment approved by the Centers for Medicare and Medicaid Services (CMS) and is removing hourly salary, hourly fringe benefit costs and hourly contract amounts from the list of information required to be submitted by school districts as that information will be captured on the cost report (now required by CMS) to be submitted by each school district.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to comply with a Centers for Medicare and Medicaid Services (CMS) mandate.

(c) How the amendment conforms to the content of the autho-

rizing statutes: The amendment conforms to the content of the authorizing statutes by complying with a CMS mandate regarding speech-language pathologists' requirements; thus, preventing Kentucky's DMS program from losing federal funding for services provided by speech language pathologists.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by complying with a CMS mandate regarding speech-language pathologists' requirements; thus, preventing Kentucky's DMS program from losing federal funding for services provided by speech language pathologists.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: School districts which provide Medicaid-covered school-based health services will be affected by the amendment to this administrative regulation. There are approximately 143 school districts in Kentucky who provide Medicaid-covered school based health services.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Any speech-language pathologist who provides Medicaid school-based services currently but does not meet the amended speech-language pathologists' requirements will have to meet the requirements if they wish to be able to provide Medicaid-covered, school-based health services.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). Any speech-language pathologist who does not currently meet the CMS-mandated requirements, will experience the costs of obtaining the revised credentials if they wish to be able to provide Medicaid-covered, school-based health services.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Speech-language pathologists who meet the CMS-mandated requirements will be able to be reimbursed for Medicaid school-based health services and their employers, school districts, likewise, will be able to be reimbursed by the Medicaid Program.

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

(a) Initially: The Department for Medicaid Services (DMS) expects to experience no cost as a result of this amendment.

(b) On a continuing basis: DMS expects to experience no cost as a result of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding is necessary to implement the amendment to the administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor directly or indirectly increases any fees.

(9) Tiering: Is tiering applied? Tiering was not applied in this administrative regulation because it is applicable equally to all individuals or entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 C.F.R. 440.110 and a state plan amendment required and subsequently approved by the Centers for Medicare and Medicaid Services (CMS). The state plan amendment was submitted to CMS in response to a CMS audit which requested changes to the Department for Medicaid Services school-based health services program.

2. State compliance standards. KRS 205.520(3) states, "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. To be Medicaid reimbursable, Kentucky speech-language pathology services must be provided by a speech-language pathologist who has a current license from the Kentucky Board of Speech-Language Pathology and Audiology and a current certificate of clinical competence issued by the American Speech-Language-Hearing Association.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment will not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendment will not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services and Kentucky school districts who provide Medicaid school-based health services will be affected by the amendment.

3. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 C.F.R. 440.110.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS anticipates no increase in revenue as a result of this administrative regulation. A school district whose speech-language pathologists who fail to obtain the CMS-mandated credentials for providing Medicaid school-based health services could lose revenues as those pathologists would be ineligible to provide Medicaid school-based health services as a result of the amendment. Thus, the school district would be unable to be reimbursed for the services that otherwise could have been provided by those speech-language pathologists.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS anticipates no increase in revenue as a result of this administrative regulation. DMS anticipates no increase in revenue as a result of this administrative regulation. A school district whose speech-language pathologists who fail to obtain the CMS-mandated credentials for providing Medicaid school-based health services could lose revenues as those pathologists would be ineligible to provide Medicaid school-based health services as a result of the amendment. Thus, the school district would be unable to be reimbursed for the services that otherwise could have been provided by those speech-language pathologists.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services (DMS) expects to experience no cost as a result of this amendment.

(d) How much will it cost to administer this program for subsequent years? DMS expects to experience no cost as a result of this amendment.

Note: If specific dollar estimates cannot be determined, provide

a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MAY 15, 2011

GENERAL GOVERNMENT CABINET
Board of Auctioneers
(Amendment)

201 KAR 3:045. Recordkeeping and Accounting.

RELATES TO: KRS 330.110(5)
STATUTORY AUTHORITY: KRS 330.050(8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 330.050(8) authorizes the Board of Auctioneers to promulgate administrative regulations concerning recordkeeping and accounting. This administrative regulation amends the existing regulation. This administrative regulation protects the public through adequate recordkeeping and accounting.[~~To protect the public through adequate recordkeeping and accounting.~~]

Section 1. Proceeds of a personal property auction not disbursed to the owner on auction day shall be deposited in an auction escrow account by the auctioneer/auction firm no later than three banking days following the date of auction or sale of the goods, whichever occurs first.

Section 2. Auctioneers/auction firms shall use federally insured depositories in the Commonwealth of Kentucky.

Section 3. Proceeds due from the sale of goods, other than real property, shall be disbursed to the owner no later than thirty (30) days after the date of each auction.

Section 4. Funds from a real estate auction shall be held in escrow until settlement in accordance with the agreement of sale.

Section 5. If the owner's goods are not sold in a single auction, proceeds due shall be disbursed to the owner within thirty (30) days after each auction for goods, other than real property, or in accordance with the agreement of sale for the sale of real property. Notice shall be given to the owner of tentative date of auction of the remaining goods.

Section 6. The auction escrow account shall be used solely for the preservation and guarantee of auction proceeds until disbursed at settlement. Funds for any other purpose shall not be commingled with the auction escrow account. Moneys due to the auctioneer or auction firm shall not be withdrawn from the auction escrow account until final settlement is made with the owner.

Section 7. Auction records, including lists of buyers and their addresses, and clerk sheets showing the items sold including the buyers' numbers or names and the selling prices, and the final settlement papers, shall be retained for a period of five (5) years from the date of settlement. These business records shall be available for inspection by the board or its designees as deemed appropriate and necessary.[~~Section 1. (1) Any principal or apprentice auctioneer licensed by the Kentucky Board of Auctioneers shall be required to provide a receipt or receipts to all individuals or businesses placing merchandise with him for sale by him at auction. Every apprentice and principal auctioneer shall keep a copy of each receipt given for merchandise as provided herein, and shall give a true copy of said receipts to the owner of the property accepted for sale at auction.~~

~~(2) A principal auctioneer shall further render an accounting and settlement with the seller of any property sold at auction within thirty (30) days after the conclusion of such sale unless there is a legal requirement that funds held in escrow by that principal auctioneer be held longer than said thirty (30) days.~~]

This is to certify that the chief officer has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 156.070(4).

GLENN BIRDWHISTELL, Chairman
APPROVED BY AGENCY: May 3, 2011
FILED WITH LRC: May 13, 2011 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2011 at 10 AM Eastern Time at the Kentucky Board of Auctioneers, 9112 Leesgate Rd # 5 Louisville, Kentucky 40222-5054. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, or 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 June 30, 2011. Send written notifications of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephen Van Zant, General Counsel, 2819 Ring Road, Elizabethtown, Kentucky 42701, phone (270) 765-4196, fax (270) 737-4790.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Van Zant

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation amends existing regulation in order to specify rules for record keeping and account.

(b) The necessity of this administrative regulation: The existing regulation is vague as to what documentation must be retained by licensees and also provides for a time period for settlement with consumers of thirty (30) days.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 330.050(8) authorizes the Board of Auctioneers to promulgate administrative regulations concerning recordkeeping and accounting.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment provides clarity as to what documentation must be retained by licensees and also shortens the maximum time period for licensees to settle with consumers from thirty (30) days to three (3) banking days.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides clarity as to what documentation must be retained by licensees and also shortens the maximum time period for licensees to settle with consumers from thirty (30) days to three (3) business days.

(b) The necessity of the amendment to this administrative regulation: It is the opinion of the Board of Auctioneers that the current regulation is vague as to what records must be retained by licensees and that the maximum time period for settlement was too long.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 330.050(8) authorizes the Board of Auctioneers to promulgate administrative regulations concerning recordkeeping and accounting.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides clarity as to what documentation must be retained by licensees and also shortens the maximum time period for licensees to settle with consumers from thirty (30) days to three (3) business days, which should benefit Kentucky consumers.

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

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: Records will be required to be kept for five (5) years; settlements will be required to be made (except for real estate

transactions) in three (3) banking days.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Records will be required to be kept for five (5) years; settlements will be required to be made (except for real estate transactions) in three (3) banking days.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is not expected that compliance with this amended regulations will increase cost for auctioneers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Greater clarity will be provided as to recordkeeping requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: No additional cost is expected.

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not necessary.

(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.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? Tiering is not applied. Since this regulation concerns record keeping and accounting regulations, it is appropriate to apply the same to all licensees. This administrative regulation treats all licensed auctioneers and auction houses the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

(c) How much will it cost to administer this program for the first year?

(d) How much will it cost to administer this program for subsequent years?

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:056. Advanced practice registered nurse licensure, program requirements, recognition of a national certifying organization.

RELATES TO: KRS 314.011(8), 314.042, 314.091, 314.161, 314.470

STATUTORY AUTHORITY: KRS 314.042(7), 314.131(1), 314.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.042 requires the licensure of an advanced practice registered nurse. This administrative regulation establishes the requirements for licensure, renewal, and reinstatement, programs, and recognition of a national certifying organization.

Section 1. An applicant for licensure as an advanced practice registered nurse in Kentucky shall:

(1) Complete an "Application for Licensure as an Advanced Practice Registered Nurse" as required by 201 KAR 20:370, Section 1(1);

(2) Provide a copy of a current active Registered Nurse license or validation of Registered Nurse licensure if the state of licensure does not issue licensure cards;

(3) Submit the fee required by 201 KAR 20:240, Section 1(2)(k); and

(4) Comply with the requirements established in KRS 314.042 and Sections and 4 through 10 of this administrative regulation.

(5) If the applicant is applying only for a license as an advanced practice registered nurse, the applicant shall also provide:

(a) A completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is within six (6) months of the date of the application;

(b) A report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is within six (6) months of the date of the application;

(c) A certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(d) A letter of explanation that addresses each conviction, if applicable.

(6) An applicant shall not be licensed until a report is received from the FBI pursuant to the request submitted under subsection (5)(a) of this section and any conviction is addressed by the board.

Section 2. Postbasic Program of Study and Clinical Experience. (1) An organized postbasic program of study and clinical experience shall conform to the following criteria in order to be acceptable to the board. The program shall:

(a) Be an established, ongoing, and organized program offered on a routine basis to an enrollee;

(b)1. Be accredited or approved for the education of nurses by a recognized accreditation or approval body; or

2. Be sponsored by a sponsoring organization, which shall hold the accreditation or approval for the education of nurses by a recognized accreditation or approval body;

(c) Have a program design which prepares an enrollee to function in a role consistent with the advanced practice registered nursing designation;

(d) Have a program design which includes purpose, philosophy, objectives, curriculum content, and plan to evaluate achievement of objectives and measurement of learning outcomes of students;

(e) Have a designated faculty responsible for planning, development, implementation, and evaluation of curriculum and students;

(f) Include didactic components that prepare the student to perform the additional acts delineated by the board pursuant to KRS 314.011(8) and include at least pharmacology, advanced physical assessment, advanced pathophysiology, and medical management of disease and differential diagnosis;

(g) Include a supervised clinical experience that includes application of all the didactic components; and

(h) Upon successful completion, award a diploma or certificate.

(2)(a) If the applicant for licensure as an advanced practice registered nurse completed a postbasic program of study after January 1, 2005, the applicant shall hold a master's degree, or doctorate, or postmaster's certificate awarding academic credit by

a college or university related to the advanced practice registered nurse designation.

(b) If the applicant for licensure as an advanced practice registered nurse completed a postbasic program of study before January 1, 2005, the program shall be evaluated by the board on an individual basis to determine if the program is acceptable to the board by sufficiently preparing a student for advanced practice registered nursing.

Section 3. National Certifying Organizations. (1) A nationally established organization or agency which certifies registered nurses for advanced practice registered nursing shall be recognized by the board if it meets the following criteria:

(a) The certifying body is an established national nursing organization or a subdivision of this type of organization;

(b) Eligibility requirements for certification are delineated;

(c) Certification is offered in specialty areas of clinical practice consistent with the population focus required by and defined by KRS 314.011;

(d) Scope and standards of practice statements are promulgated;

(e) Mechanism for determining continuing competency is established; and

(f) The certifying body is accredited by the American Board of Nursing Specialties or the National Commission for Certifying Agencies.

(2) The board recognizes the following national certifying organizations:

(a) American Nurses Credentialing Center;

(b) American College of Nurse Midwives;

(c) American Midwifery Certification Board[~~ACNM Certification Council~~];

(d) Council on Certification/Recertification of Nurse Anesthetists;

(e) Pediatric Nursing Certification Board;

(f) National Certification Corporation;

(g) American Academy of Nurse Practitioners; and

(h) American Association of Critical-Care Nurses Certification Corporation.

(3) The following certification examinations for nurse practitioners (NP) and clinical nurse specialists (CNS) offered by the national certifying organizations identified in subsection 2 of this section shall be deemed to meet the definition of population focus of KRS 314.011(21):

(a) Acute Care NP;

(b) Adult NP;

(c) Adult Psychiatric and Mental Health NP;

(d) Family NP;

(e) Family Psychiatric and Mental Health NP;

(f) Gerontological NP;

(g) Neonatal NP;

(h) Pediatric NP;

(i) Pediatric/Primary Care NP;

(j) Pediatric/Acute Care NP;

(k) Women's Health NP;

(l) Adult Health CNS;

(m) Adult Psychiatric and Mental Health CNS;

(n) Child and Adolescent Psychiatric and Mental Health CNS;

(o) Gerontological CNS;

(p) Pediatric CNS;

(q) Adult Acute Care CNS;

(r) Pediatric Acute Care CNS; and

(s) Neonatal Acute Care CNS.

(4) The board recognizes the following national certifying organizations only for those individuals who received certification prior to the effective date of this administrative regulation and who have continually renewed their Kentucky advanced practice registered nurse license since that date: Oncology Nursing Certification Corporation.

Section 4. Practice Pending Licensure. (1) A registered nurse who meets all the requirements for practice as an advanced practice registered nurse, and who holds a registered nurse temporary work permit issued pursuant to 201 KAR 20:110 pending licensure by endorsement or a privilege to practice as a registered nurse, shall be authorized to practice as an advanced practice registered nurse for a period of time not to exceed the expiration date of the temporary work permit.

(2) Authorization to practice pursuant to this section shall be in the form of a letter from the board acknowledging that the applicant has met all the requirements of this section. An applicant shall not practice until the authorization letter has been issued.

(3) An individual authorized to practice pursuant to subsection (1) of this section may use the title "APRN Applicant" or "APRN App.".

Section 5. License Renewal. (1) The advanced practice registered nurse license shall expire or lapse when the registered nurse license or privilege expires or lapses.

(2) To be eligible for renewal of the license as an advanced practice registered nurse, the applicant shall:

(a) Renew the registered nurse license or privilege on an active status;

(b) Submit a completed "ARPN License Renewal Application" form as required by 201 KAR 20:370, Section 1(1);

(c) Submit the current renewal application fee, as established in 201 KAR 20:240, Section 1(2)(l); and

(d) Maintain current certification by a recognized national certifying organization.

(3) An advanced practice registered nurse who fails to renew the registered nurse license or privilege or is otherwise unable to legally practice as a registered nurse shall not practice as or use the title of advanced practice registered nurse until:

(a) A current active license has been issued by the board or a privilege is recognized by the board; and

(b) The advanced practice registered nurse license has been reinstated.

(4) An advanced practice registered nurse shall provide evidence of current certification by a recognized national certifying organization upon recertification and at the request of the board.

Section 6. License Reinstatement. (1) If a nurse fails to renew the advanced practice registered nurse license as prescribed by KRS 314.042 and this administrative regulation, the license shall lapse on the last day of the licensure period.

(2) To be eligible for reinstatement of the advanced practice registered nurse license, the applicant shall:

(a) Submit a completed "Application for Licensure as an Advanced Practice Registered Nurse" form as required by 201 KAR 20:370, Section 1(1);

(b) Submit the current reinstatement application fee, as established in 201 KAR 20:240, Section 1(2)(m); and

(c) Maintain current certification by a recognized national certifying organization.

(3) If the applicant is applying for reinstatement of a license as an advanced practice registered nurse, the applicant shall also provide a:

(a) Completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is within six (6) months of the date of the application;

(b) Report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is within six (6) months of the date of the application;

(c) Certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(d) Letter of explanation that addresses each conviction, if applicable.

Section 7. Certification or Recertification. (1)(a) An advanced practice registered nurse shall maintain current certification or recertification from one (1) of the national organizations recognized in Section 3 of this administrative regulation throughout the licensure period.

(b) The board shall conduct an audit to verify that an advanced practice registered nurse has met the requirements of subsection (1)(a) of this section.

(2) A nurse who fails to attain current, active certification or

recertification from one (1) of the national organizations recognized in Section 3 of this administrative regulation shall not practice or use the title of advanced practice registered nurse until the requirements of Sections 1 through 8 of this administrative regulation have been met.

(3) An advanced practice registered nurse who is decertified by the appropriate national organization shall:

(a) Notify the board of that fact; and

(b) Not practice as or use the title of advanced practice registered nurse during the period of decertification.

Section 8. (1) An application shall be valid for a period of one (1) year from the date of submission to the board.

(2) After one (1) year from the date of application, the applicant shall be required to reapply.

Section 9. The requirements of Sections 1 through 11 of this administrative regulation shall not prohibit the supervised practice of a nurse enrolled in:

(1) A postbasic educational program for preparation for advanced practice registered nursing; or

(2) An advanced practice registered nurse refresher course.

Section 10. A registered nurse who holds himself out as a clinical specialist or is known as a clinical specialist shall be required to be licensed as an advanced practice registered nurse if his practice includes the performance of advanced practice registered nursing procedures.

Section 11. A nurse practicing as an advanced practice registered nurse who is not licensed as an advanced practice registered nurse by the board, an advanced practice registered nurse whose practice is inconsistent with the specialty to which he has been designated, or an advanced practice registered nurse who does not recertify and continues to practice as an advanced practice registered nurse shall be subject to the disciplinary procedures set in KRS 314.091.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, five (5) 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for Advanced Practice Registered Nurse (APRN) licensure and recognizes specific national certifying organizations.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(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 makes two minor clean-ups. The primary change is to clarify that a license will not be issued until the Board receives the criminal background report from the FBI and addresses any convictions.

(b) The necessity of the amendment to this administrative regulation: The regulation was unclear as to when a license would be issued.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue.

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

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is needed. APRN applicants need to be aware of the clarification to the licensure requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues:

Expenditures :

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:062. Standards for advanced practice registered nurse (APRN) programs of nursing.

RELATES TO: KRS 314.111

STATUTORY AUTHORITY: KRS 314.111, 314.131.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.111(3) and 314.131(2) require the board to approve schools of nursing and courses preparing persons for Advanced Practice Registered Nurse (APRN) licensure and to monitor standards for APRN competency under KRS Chapter 314. This administrative regulation establishes APRN programs of nursing standards.

Section 1. Definitions. (1) "Advanced Practice Registered Nurse program of nursing" means the educational unit that prepares a person for practice and licensure as an advanced practice registered nurse and includes secondary or distance learning sites, if applicable.

(2) "APRN program coordinator" means that individual who is responsible for the organization of the educational component and is licensed as an APRN in the designated role.

(3) "Designated chief nursing academic officer" means that individual who has academic and administrative authority for the overall nursing program.

(4) "National nursing accrediting body" means National League for Nursing Accreditation Commission (NLNAC) or the Commission for Collegiate Nursing Education (CCNE).

Section 2. Requirements for Advanced Practice Registered Nursing Programs. (1) An educational institution that offers an advanced practice registered nursing program shall ensure that the program:

(a) Is offered by or affiliated with a college or university that is accredited under 201 KAR 20:260, Section 2(1);

(b) Is a formal educational program, that is part of a doctoral, masters program, or a post-masters program in nursing with a concentration in an advanced practice registered nursing and population foci as required for licensure in KRS 314.011;

(c) Has presented evidence that it has applied for nursing program accreditation and meets accreditation standards; and

(d) Offers a curriculum that covers the scope of practice for both the category of advanced practice registered nurse as specified in KRS 314.011 and the population foci.

(2) The clinical practice component of the curriculum shall be congruent with current national professional organizations and nursing accrediting body standards applicable to the APRN role and population focus;

(3) The program shall notify the board of any changes in hours of clinical practice or accreditation status and respond to board requests for information.

(4) The program shall have financial resources sufficient to support the educational goals of the program.

(5) The program shall establish academic and professional standards that determine admission to the program, progression in the program, and graduation from the program that are consistent with sound educational guidelines and recognized standards of professional conduct.

(6) The program shall notify the board regarding any plans to expand the program to additional locations or increase the student enrollment by more than fifty (50) percent from the previously admitted cohort.

(7) Voluntary closure of a program shall be in accordance with 201 KAR 20:360, Section 5.

Section 3. Currently Existing APRN Programs of Nursing. (1) APRN programs of nursing in existence as of July 15, 2010, shall seek approval from the board prior to July 15, 2011. The following materials shall be submitted along with the fee identified in 201 KAR 20:240:

(a) Details regarding each program presently enrolling students, to include:

1. The name of the institution;
2. The address of the institution;
3. Contact information for the chief nursing academic officer;
4. The degree offered; and
5. All designated clinical tracks;

(b) A copy of the most recent self-study submitted for the most recent accreditation or reaccreditation by a national nursing accrediting body; and

(c) Copies of all communication between the program and the national nursing accrediting body since the time of the site visit.

(2) The program shall meet all requirements established for curriculum, organizational structure, faculty and students as identified in this administrative regulation.

(3) Following submission of the materials, the application shall be placed on the next education committee agenda.

(4) The designated chief nursing academic officer, along with the APRN program coordinator, shall be available during the discussion of the report at the education committee to provide clarification. The committee shall make a recommendation to the board.

(5) The decision to grant full approval by the board shall be based on review of the following:

(a) Achievement and continued approval by a national nursing accrediting body; and

(b) Adherence to all requirements of this administrative regulation.

(6) The approval period shall not exceed the approval period of the national nursing accrediting body.

(7)(a) An educational institution that is denied approval of an advanced practice registered nursing program shall meet with representatives of the board to determine actions needed;

(b) Following the meeting referenced in paragraph (a) of this subsection, the institution may request a hearing pursuant to KRS Chapter 13B by filing a written request with the board within thirty (30) days of service of the board's order denying its application for approval.

Section 4. Establishing a New APRN Program of Nursing. (1) An institution may receive consultation from the board prior to establishing an APRN program of nursing.

(2) An institution that desires to establish and conduct an APRN program of nursing shall be accredited as outlined in 201 KAR 20:260.

(3) An institution shall submit an application to establish an APRN program of nursing along with the fee required by 201 KAR 20:240.

(4) At the time that the application is submitted to the board, the institution shall also begin the application process with a national nursing accrediting body.

(5) The application shall be submitted to the board no less than twelve (12) months prior to the first intended admission of students.

(6) The application shall be completed under the direction of the registered nurse who shall serve as the designated chief nursing academic officer or the APRN program coordinator and who meets the qualifications of an APRN program coordinator as outlined in this administrative regulation.

(7) The institution shall not advertise or enroll students until the board has granted developmental approval status.

(8) The application shall include:

(a) General information about the governing institution including the:

1. Mission;
2. Ownership;

3. Method of financing;
4. Accreditation;
5. Enrollment;
6. Area served
7. Institutional faculty qualifications; and
8. Resources that are sufficient to support defined outcomes and goals;

(b) An organizational chart of the institution and a written plan which describes the organization of the program of nursing and its relationship to the institution;

(c) A designation of the current or desired national nursing accrediting body to be used in the development of the program;

(d) A description and rationale for the proposed type of APRN program to include the certificate or degree to be awarded and the population foci;

(e) Approval from the governing body of the institution proposing the APRN program of nursing or other empowered approval bodies as applicable;

(f) A copy of the curriculum vitae of the registered nurse identified as the APRN Program coordinator;

(g) Results of a needs assessment, including availability of an adequate number of potential students and employment opportunities for program graduates;

(h) Evidence of support from the community of interest;

(i) A timeline for the admission of students, projected graduation of the first class, and any plans for expansion;

(j) A description of physical or virtual resources adequate to meet the needs of the faculty and students;

(k) Evidence of a sound financial base and demonstrated financial stability available for planning, implementing, and maintaining the proposed program of nursing;

(l) The philosophy of the APRN program and program outcomes for graduates;

(m) Curriculum design for each identified track to include:
1. Proposed course sequence;
2. Description of courses; and
3. Credit hours delineating those credits assigned to theory and practice;

(n) The availability of clinical experiences sufficient to accommodate the number of students to include the total number of clinical hours designated for each track or population foci;

(o) A five (5) year plan for recruiting and retaining qualified nurse faculty; and

(p) Recruitment plan and five (5) year projection for student enrollment and policies and procedures for student selection and progression.

(9) Developmental approval shall be the designation granted to an APRN program of nursing that has met all the requirements of this administrative regulation including evidence that it has applied for accreditation from a national nursing accrediting body. This designation shall be for no more than a two (2) year period of time pending review and approval by a national nursing accrediting body.

(10) When developmental approval has been granted by the board, the program may proceed with implementation including the admission of students. It shall be the responsibility of the APRN program of nursing to notify the board of the admission and graduation of the first class.

(11) Developmental approval of an APRN program shall expire eighteen (18) months from the date of approval if a class of students is not admitted.

(12) All formal communication between the APRN program of nursing and the national nursing accrediting body shall be forwarded to the board within thirty (30) days of receipt.

(13) The APRN program coordinator shall notify the board within five (5) business days of any change in accreditation status.

(14)(a) The APRN program coordinator shall notify the board of pending visits by the national nursing accrediting body and a representative of the board shall arrange a joint site visit with the national nursing accrediting body representative to evaluate on-site materials included in the program proposal.

(b) Prior to the site visit, the program of nursing shall submit requested materials that provide evidence of program compliance with the standards established by the state and the national nursing accrediting body.

(15)(a) Following a site visit, a report shall be prepared and shared with the APRN program coordinator for review and correction of factual data. The representatives' site visit report shall not be construed as affirming that the proposed program plan meets requirements.

(16) The institution shall be notified in writing of action taken by the board on the site visit report.

(17) The decision to grant full approval by the board shall be based on review of the following:

(a) Achievement and continued full approval by a national nursing accrediting body; and

(b) Site visit reports by the board representative conducted to evaluate program compliance with administrative regulations.

(18) The board may grant full approval for a period of time not to exceed the approval period of the national nursing accrediting body.

Section 5. Administrative Structure of Program. (1) The designated chief nursing academic officer shall hold the following qualifications:

(a) A current, active, unencumbered registered nurse license or privilege to practice in Kentucky;

(b) A doctoral degree earned from a university accredited by the United States Department of Education;

(c) Educational preparation or experience in teaching and learning principles for adult education, including curriculum development and administration;

(d) At least two (2) years of clinical experience; and

(e) Current knowledge of APRN practice.

(2) The qualifications for the APRN program coordinator shall include:

(a) A current, active, unencumbered APRN license or privilege to practice in Kentucky;

(b) A minimum of a masters degree in nursing or health-related field in the clinical specialty from an accredited college or university which accreditation is recognized by the U.S. Department of Education;

(c) Educational preparation or experience in teaching and learning principles for adult education, including curriculum development and administration; and

(d) At least two (2) years of clinical experience.

(3) The board shall be notified in writing of a vacancy or pending vacancy in the position of the APRN program coordinator within fifteen (15) days of the program of nursing's awareness of the vacancy or pending vacancy. If the APRN program coordinator vacates the position, the nursing unit administrator shall submit to the board in writing:

(a) The effective date of the vacancy;

(b) The name of the APRN who has been designated to assume the administrative duties for the program and a copy of his or her curriculum vitae; and

(c) Status reports from the APRN program of nursing national nursing accrediting body.

(4) If there shall be a lapse between the date of the vacancy and the date the newly-appointed APRN program coordinator assumes duties, the designated nursing unit administrator or the head of the governing institution shall submit a plan of transition to insure the continuity of the program;

(5) Progress reports shall be submitted if requested by the board;

(6) The length of the appointment of an interim APRN program coordinator shall not exceed six (6) months.

(7) Additional six (6) month periods may be granted upon request to the board based on a documented inability to fill the position.

(8) If the individual to be appointed as the interim APRN program coordinator is not qualified pursuant to the APRN program of nursing national nursing accrediting body's standards, the designated nursing unit administrator shall petition the board for a waiver prior to the appointment.

Section 6. Faculty, Adjuncts, and Clinical Preceptors. (1) The qualifications for nursing faculty within the program leading to li-

censure as an APRN shall be as follows:

(a) A current, active, unencumbered APRN license to practice in Kentucky, unless the nurse faculty member will teach solely online and will not physically practice in this state in which case the nurse faculty member shall hold a current, active, unencumbered APRN license in the state in which they are located.

(b) A minimum of a master's degree in nursing or health related field in the clinical specialty;

(c) Two (2) years of APRN clinical experience; and

(d) Current knowledge, competence and certification as an APRN in the role and population foci consistent with teaching responsibilities.

(2) Adjunct clinical faculty employed solely to supervise clinical nursing experiences of students shall meet all the faculty qualifications for the program level they are teaching as designated in subsection (1) of this section.

(3) Other qualified individuals may teach a non-clinical course or assist in teaching a clinical course in an advanced practice registered nursing program within their area of expertise.

(4) Clinical preceptors may be used to enhance faculty-directed clinical learning experiences. Clinical preceptors shall have demonstrated competencies related to the area of assigned clinical teaching responsibilities and shall serve as a role model and educator to the student. Clinical preceptors shall be approved by faculty and meet the following requirements:

(a) Holds an unencumbered active license or multistate privilege to practice as a registered nurse and advanced practice registered nurse or a physician in the state in which the preceptor practices or, if employed by the federal government, holds an unencumbered active registered nurse and advanced practice registered nurse or physician license in the United States; and

(b) Has a minimum of one (1) year full time clinical experience in current practice as a physician or as an APRN within the role and population focus.

(5) A clinical preceptor shall function as a supervisor and teacher and evaluate the student's performance in the clinical setting. The program faculty shall retain ultimate responsibility for student learning and evaluation.

(6) The preceptor may be a practicing physician or other licensed, graduate-prepared health care provider with comparable practice focus. A majority of the preceptors shall be nurses.

(7) A clinical preceptor who is an APRN shall hold:

(a) National certification in the advanced practice category in which the student is enrolled; or

(b) Current board licensure in the advanced practice category in which the student is enrolled.

(8) If a preceptor cannot be found who meets the requirements, educational and experiential qualifications as determined by the nursing program, the Board of Nursing shall be notified and a waiver requested.

(9) A complete list of faculty members, clinical faculty, adjuncts, and preceptor appointments shall be reported to the board in writing annually.

Section 7. Curriculum. (1) An education program offered by an accredited college or university that offers a graduate degree or post-masters certificate with a concentration in the APRN role and at least one (1) population foci shall include the following components:

(a) Clinical supervision as specified by the national certifying organizations applicable to the APRN role and population focus set forth in 201 KAR 20:056, Section 3(2); and

(b) Curriculum that is congruent with:

1. "AACN Essentials for Masters Education for Advanced Practice Nursing" if the program grants a master's degree or post-master's certificate or "AACN Essentials for Doctoral Education for Advanced Nursing Practice" if the program grants a doctoral degree; or

2. "NLNAC Standards and Criteria Master's and Post-Master's Certificate" if the program grants a master's degree or post-master's certificate or "NLNAC Standards and Criteria Clinical Doctorate" if the program grants a doctoral degree.

(2) APRN programs preparing for two (2) population foci or combined nurse practitioner/clinical nurse specialist shall include content and clinical experience in both functional roles and population foci.

(3) Each instructional track shall have a minimum of 500 supervised clinical hours directly related to the role and population foci, including pharmacotherapeutic management of patients.

(4) The curriculum shall contain the following three (3) separate graduate level courses in addition to APRN core courses:

(a) Advanced physiology/pathophysiology, including general principles that apply across the lifespan;

(b) Advanced health assessment, which includes assessment of all human systems, advanced assessment techniques, concepts and approaches; and

(c) Advanced pharmacology, which includes pharmacodynamics, pharmacokinetics and pharmacotherapeutics of all broad categories of agents.

(5) Content specific to the role and population focus in the APRN core area shall be integrated throughout the other role and population didactic and clinical courses.

(6) The curriculum shall include:

(a) Diagnosis and management of diseases across practice settings including diseases representative of all systems and caused by major morbidities;

(b) Preparation that provides a basic understanding of the principles for decision making in the identified role; and

(c) Role preparation in one (1) of the six (6) population foci of practice identified in 201 KAR 20:056.

(7) Preparation in a specialty area of practice is optional, but if included, it shall build on the APRN role/population-focus competencies. Clinical and didactic coursework shall be comprehensive and sufficient to prepare the graduate to practice in the APRN role and population focus.

Section 8. Students. (1) A student entering into the APRN program shall have an active, unencumbered registered nurse license.

(2) A student who wishes to complete a clinical experience in this state but is enrolled in an out of state APRN program pursuant to Section 11 of this administrative regulation shall have an active, unencumbered RN license in another jurisdiction, either in the U.S. or in another country. The following criteria shall be met:

(a) The APRN program of nursing is accredited by a national nursing accrediting body;

(b) The graduate program advises the student of expectations regarding student practice and required supervision;

(c) The graduate program provides direct supervision of the clinical experience and informs faculty, preceptors and clinical facilities that the student is practicing under this limited exemption; and

(d) The student limits practice to what is required for completion of the graduate program requirements.

Section 9. Ongoing Approval. (1) Approved APRN programs of nursing accredited by a national nursing accrediting body shall be subject to a site visit at intervals associated with their national nursing accreditation.

(2) The board requires continuous accreditation by a national nursing accrediting body.

(3) A joint site visit date shall be established in collaboration with the APRN program of nursing and representatives of the respective national nursing accrediting body. A specific list of information required for review shall be sent to the program at the time that the site visit date is established.

(4) Prior to the site visit, the program of nursing shall submit requested materials that provide evidence of compliance with the standards set forth by the APRN program of nursing national nursing accrediting body.

(5) Factors that may indicate the need for a focused site visit and jeopardize program approval status:

(a) Reported deficiencies in compliance with this administrative regulation;

(b) Noncompliance with the governing institution or program of nursing's stated philosophy, mission, program design, objectives, outcomes, or policies;

(c) Continual failure to submit records or reports to the board within the designated time frame;

(d) Failure to provide sufficient clinical learning opportunities for students to achieve stated outcomes;

(e) Failure to comply with requirements of the board or to respond to recommendations of the board within the specified time;

(f) Failure to submit communication from the accrediting agencies within the time frames identified in Section 4 of this administrative regulation;

(g) Withdrawal of accreditation for either the college or university or the national nursing accrediting body, or if accredited for less than the maximum accreditation period, the program may require additional reports regarding noncompliance;

(h) Failure to obtain approval of a change that requires approval prior to implementation;

(i) Providing false or misleading information to students or the public concerning the program of nursing;

(j) A change in or the inability to secure or retain a qualified APRN program coordinator or faculty as required by their national nursing accrediting body;

(k) Evidence of a high student or faculty attrition rate as compared to the state average;

(l) A change in the ownership or organizational restructuring of the governing institution; or

(m) As deemed necessary by the board or the APRN program of national nursing accrediting body to determine compliance with referenced standards.

(6) If the APRN program of nursing achieves reaccreditation and the board determines that all requirements have been met, the program shall be eligible for continuing full approval.

(7) The board shall have the authority to visit a program of nursing on an announced or unannounced basis.

(8) Board action following a site visit:

(a) The board shall evaluate a program of nursing in terms of its compliance with this administrative regulation at the same time as the national nursing accrediting body.

(b) Following a site visit and prior to board consideration, a draft of the site visit report shall be made available to the APRN program coordinator for review and correction of factual data.

(c) The APRN program administration shall be available during the discussion of the report at the board committee to provide clarification.

(d) Following the board's review and decision, a letter shall be sent to the APRN program coordinator and the head of the governing institution regarding the approval status of the program of nursing and any requirements to be met along with required timelines.

(e) A program has the right at any time to present evidence to the board that any deficiencies have been corrected and may petition the board to restore full approval.

Section 10. Approval Status and Withdrawal of Approval. (1) The board shall approve an APRN program of nursing if the program meets the requirements of this administrative regulation. The board may grant developmental approval for a period of two (2) years or less to an APRN program of nursing.

(2) Full approval may be granted for the same period of time that is designated by the national nursing accrediting body.

(3)(a) The APRN program coordinator of a nursing program that has its continuing approval-status rescinded by the board shall meet with representatives of the board to determine actions needed.

(b) Following this meeting, the program may request a hearing pursuant to KRS Chapter 13B by filing a written request with the board within thirty (30) days of service of the board's order rescinding continuing full-approval status.

(4) Conditional approval shall be the designation granted to a program of nursing if one (1) or more of the standards have not been met.

(a) Following the decision of the board to place a program of nursing on conditional status, the program coordinator shall be notified of the areas of deficiency and the time frame allowed for corrective action to be implemented.

(b) The APRN program coordinator shall, within thirty (30) days of the notice of deficiencies being sent, file a plan to correct each of the deficiencies.

(c) The APRN program coordinator may, within thirty (30) days of the notice of the deficiencies, request to appear before the board to contest the board's determination of deficiencies.

(d) If the board's determination of deficiencies has not been contested or if the deficiencies being sent are upheld after a request to contest them, the board may conduct
periodic evaluations of the program of nursing during the time of correction to determine that deficiencies have been corrected.

(e) If the plan of compliance is not completed satisfactorily within the time frame set by the board and if the program of nursing has not been granted additional time for completion, the approval status of the program of nursing shall be adjusted to probational.

(5) Probational approval shall be the designation granted to a program of nursing if one or more standards have continued to be unmet.

(a) Following the decision of the board to place a program of nursing on probational status, the program coordinator shall be notified of the continued areas of deficiency. A new student shall not be admitted until the time the program of nursing comes into compliance. This period of time shall not exceed one academic year.

(b) The APRN program coordinator shall, within thirty (30) days of the notice of the deficiencies being sent, file a plan to correct each of the identified deficiencies.

(c) The APRN program coordinator may, within thirty (30) days, of the notice of the deficiencies, submit a request to appear before the board to contest the board's determination of deficiencies.

(d) If the board's determination of deficiencies has not been contested or if the deficiencies are upheld after a request to contest them, the board may conduct periodic evaluations of the program of nursing during the time of correction to determine that deficiencies have been corrected.

(6) If the program of nursing has not corrected the deficiencies within one (1) academic year of being placed on probational status, a hearing pursuant to KRS Chapter 13B shall be conducted to determine whether to withdraw approval of the program of nursing.

(7) If the board decides to withdraw approval of a program of nursing, upon the effective date of the decision the program of nursing shall be removed from the official approved status listing. A program of nursing whose approval has been withdrawn shall:

(a) Allow a student who is currently enrolled in a nursing class to complete the program of nursing; or

(b) Assist a currently enrolled student to transfer to an approved program of nursing.

(8) A program of nursing whose approval has been withdrawn but continues to operate pursuant to subsection (7) of this section shall be continuously monitored by the board until the program closes.

(9) The board may return an APRN program to full approval status if the program attains and maintains adherence to this administrative regulation.

Section 11. Out-of-State APRN Programs Seeking Clinical Placements in Kentucky. (1) A nursing program, located in another state or territory of the United States that wishes to provide clinical experiences in Kentucky shall seek permission from the Kentucky Council of Postsecondary education before enrolling, offering or conducting these sessions for citizens of the Commonwealth.

(2) For out-of-state nursing programs, a program shall be currently accredited in good standing with a national nursing accrediting body,

(3) An applicant who is denied approval to conduct clinical instruction in Kentucky may request a meeting with board representatives or request a hearing pursuant to KRS Chapter 13B by filing a written request with the board within thirty (30) days of service of the board's order.

(4) The board may rescind approval held by an out-of-state nursing program to conduct clinical instruction in Kentucky based on factors identified in Section 9 of this administrative regulation.

(5) A program seeking individual clinical placements of students shall submit the following at least three (3) months prior to beginning of the experience:

(a) Designated university with relevant nursing accreditation status;

(b) Student name;

(c) The clinical practice setting;

(d) The credentials of the coordinating faculty member at the out-of-state institution;

(e) Credentials of the clinical preceptor, consistent with the qualifications outlined in this administrative regulation;

(f) Evidence of the student's qualifications for participation consistent with criteria outlined in Section 8 of this administrative regulation; and.

(g) Evidence of agreement of the health care facility hosting the clinical experience.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "AACN Essentials for Master's Education for Advanced Practice Nursing", 1996 Edition, American Association of Colleges of Nursing;

(b) "AACN Essentials for Doctoral Education for Advanced Nursing Practice, 2006 Edition, American Association of Colleges of Nursing;

(c) "NLNAC Standards and Criteria Master's and Post-Master's Certificate", 2008 Edition, National League for Nursing Accrediting Commission; and

(d) "NLNAC Standards and Criteria Clinical Doctorate", 2008 Edition, National League for Nursing Accrediting Commission.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m.

CAROL KOMARA, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for Advanced Practice Registered Nurse (APRN) programs of nursing

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(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 states that faculty who teach entirely on line and will not be in the state need hold only a license in the state where they are located.

(b) The necessity of the amendment to this administrative regulation: The existing language required the out of state faculty member to be licensed in Kentucky, which was determined to be incorrect.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: on line faculty, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is needed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 194A.540, 214.615, 314.041, 314.051(3), (6), 314.470

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. A completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is within six (6) months of the date of the application;

4. A report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is within six (6) months of the date of the application;

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, if applicable; [~~and~~]

7. A certified copy of any disciplinary action taken on any professional or business license in another jurisdiction with a letter of explanation or report any disciplinary action pending on any professional or business license in another jurisdiction; and

8. Evidence of completion of the jurisprudence examination required by KRS 314.041(4) for RN applications or KRS 314.051(4) for LPN applications as approved by the board.

(b) Notify the board as soon as a new address is established after submitting the application;

(c) Submit a copy of a marriage certificate, divorce decree, Social Security card, 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.

(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 or until the board receives the results of the examination or until the provisional license expires, whichever comes first.

(3) The name of the applicant shall appear on the Certified List of Kentucky Program of Nursing Graduates as established in 201 KAR 20:260, the Certified List of Out-of-state Program of Nursing Graduates, or the applicant shall request that the program submit to the board an official transcript verifying completion of program requirements. The Certified List of Out-of-state Program of Nursing Graduates shall be submitted by the nurse administrator of the out-of-state program of nursing.

(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.

(5) An applicant shall not be licensed until a report is received from the FBI pursuant to the request submitted under subsection (1)(a)3 of this section and any conviction is addressed by the board.

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) 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, if applicable.

Section 4. Provisional license. [~~Clinical Internship.~~](1) An applicant shall request a provisional license by completing the application for licensure required by Section 1 of this administrative regulation.

(2)(a) The board shall issue the provisional license to the applicant after Section 1(1)(a) and (3) of this administrative regulation are met.

(b) In the case of a graduate of a foreign nursing school, the board shall issue the provisional license after the requirements of 201 KAR 20:480, Section 1(1) and (4) are met.

(3) To qualify as "direct supervision" under KRS 314.041(5) and KRS 314.051(6), the nurse responsible for the applicant shall at all times be physically present in the facility and immediately available to the applicant while the applicant holds a provisional license.

(4) The nurse responsible for the applicant shall be currently licensed or privileged to practice as a nurse in Kentucky.

(5) Upon notification to the board that the applicant has failed the NCLEX examination, the provisional license shall be voided.[~~(3) To be eligible for a clinical internship, the applicant shall hold a current provisional license.~~

~~(4)(a) A provisional license shall expire six (6) months from the date of issuance by the board and shall not be reissued unless the provisions of subsection (5) of this section or paragraph (b) or (c) of this subsection apply.~~

~~(b) If the applicant passes the NCLEX but has not completed the clinical internship prior to the expiration of the provisional license, the applicant shall meet the requirements of Section 1(1)(a), (b), and (c) of this administrative regulation.~~

~~1. A new provisional license shall be issued.~~

~~2. The applicant shall complete the clinical internship, but does not need to retake the NCLEX.~~

~~3. Regardless of hours that may have been completed under the first provisional license, the applicant shall complete 120 hours under the new provisional license.~~

~~(c) If the applicant fails the NCLEX and has not completed the clinical internship, the provisional license shall be voided. The applicant shall meet the requirements of Section 1(1)(a) through (e) of this administrative regulation, as applicable.~~

~~2. A new provisional license shall be issued after the applicant passes the NCLEX, at which time the applicant shall complete the clinical internship.~~

~~3. Regardless of hours that may have been completed under the first provisional license, the applicant shall complete 120 hours under the new provisional license.~~

~~(d) If the applicant fails the NCLEX and has completed the clinical internship, the provisional license shall be voided.~~

~~1. The applicant shall meet the requirements of Section 1(1)(a) through (e) of this administrative regulation as applicable.~~

~~2. The applicant does not need to complete the clinical internship again.~~

~~(e) If the applicant does not take the NCLEX and does not~~

~~complete the clinical internship prior to the expiration of the provisional license, the applicant shall meet the requirements of Section 1(1)(a) through (e) of this administrative regulation, as applicable, and a new provisional license shall be issued under the provisions of this section.~~

~~(5) A person with a temporary physical or mental inability to complete the clinical internship shall:~~

~~(a) Complete the Petition to Hold Provisional License in Abeyance; and~~

~~(b) Submit evidence from a licensed health care practitioner that documents a diagnosis of a temporary physical or mental inability to complete the internship within the original six (6) months.~~

~~(6)(a) If the Petition to Hold Provisional License in Abeyance is granted, the current provisional license shall be void and shall be immediately returned to the board.~~

~~(b) The person whose petition has been granted shall not engage in nursing practice.~~

~~(7)(a)1. A person whose petition has been granted shall submit a written request to the board to reissue the provisional license once the temporary physical or mental inability has been resolved.~~

~~2. The request shall include the name, address, telephone number, date of birth, and Social Security number of the person.~~

~~3. The request shall also include written verification from a licensed health care practitioner that the temporary physical or mental inability has been resolved.~~

~~4. The person shall also submit a report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System, if the previous one (1) is more than six (6) months old.~~

~~5. The person shall also submit a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI, if the previous one (1) is more than six (6) months old.~~

~~(b) Upon submission of the required documentation and approval by the board, the board shall reissue the provisional license for six (6) months.~~

~~(c) If the required documentation is submitted more than one (1) year from the date of the initial application for licensure, the person shall meet the requirements of Section 1 of this administrative regulation.~~

~~(8) Documentation of completion of the clinical internship shall be submitted to the board in writing or electronically and it shall include the following:~~

~~(a) Name, address, telephone number, Social Security number, and date of birth of the applicant;~~

~~(b) Provisional license number;~~

~~(c) Name, address and telephone number of the facility where the clinical internship was completed; and~~

~~(d) Name of the supervising nurse.~~

~~(9) To qualify as "direct supervision" under KRS 314.041(5) and 314.051(6), the nurse responsible for the applicant shall at all times be physically present in the facility and immediately available to the applicant while the applicant is engaged in the clinical internship.~~

~~(10) The nurse responsible for the applicant shall be currently licensed to practice as a nurse in Kentucky.~~

~~(11)(a) An applicant may take the NCLEX examination anytime after being made eligible and may also complete the clinical internship at the same time.~~

~~(b) if the applicant has failed the NCLEX examination as a result of an application for licensure in a jurisdiction other than Kentucky, a provisional license to complete the clinical internship shall not be issued until the applicant has passed the NCLEX.~~

~~(12) If the applicant fails the examination, the provisional license shall be void and shall be immediately returned to the board.~~]

Section 5. Practical Nurse Role Delineation Course. (1) A graduate of a board-approved registered nurse program who is unsuccessful on the National Council Licensure Examination for registered nurses may apply for licensure by examination as a licensed practical nurse pursuant to KRS 314.041(13).

(2)(a) Prior to applying for licensure as a practical nurse, the applicant seeking practical nurse licensure pursuant to KRS 314.041(13) shall complete a board-approved practical nursing role delineation course.

(b) The applicant shall return the registered nurse provisional license, if applicable.

(3)(a) The course shall be taken only at an approved LPN program of nursing.

(b) The program of nursing shall seek approval of the course from the board.

(4) The course shall consist of at least eight (8) hours of didactic instruction and sixteen (16) hours of clinical instruction.

(5) At the conclusion of the course, the individual shall be able to make decisions and take actions that are consistent with the scope and standards of practical nursing practice, established policies, procedures, and licensing laws.

(6) The LPN program of nursing shall submit to the board a certified list of individuals who completed the course.

(7) After completion of the practical nurse role delineation course, the applicant shall comply with Section 1 of this administrative regulation.

Section 6. Nurse Licensure Compact Provisions. (1) An applicant who is issued a license and who does not have permanent residency in Kentucky shall be issued a license that indicates on the license that it is only valid in Kentucky.

(2) The board may request that an applicant provide evidence of the applicant's state of residence.

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

(a) "Certified List of Kentucky Program of Nursing Graduates", 6/10, Kentucky Board of Nursing;

(b) "Petition to Hold Provisional License in Abeyance," (8/04), Kentucky Board of Nursing; and

(c) "Certified List of Out of State Program of Nursing Graduates", 6/10, Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for licensure by examination for RNs and LPNs.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(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: House Bill 442 eliminated the clinical internship requirement and replaced it with a jurisprudence examination. The amendments reflect these changes. The amendments also clarify that a license will not be issued until the Board receives the criminal background report from the FBI and addresses any convictions.

(b) The necessity of the amendment to this administrative regulation: The regulation was unclear as to when a license would be issued. Also, House Bill 442 required the other changes.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue and making the changes required by HB 442.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for licensure by examination, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
Applicants will no longer have to complete a clinical internship. They will have to complete the jurisprudence examination.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply other than the cost of the jurisprudence exam.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:110. Licensure by endorsement.

RELATES TO: KRS 194A.540, 214.615, 314.031, 314.041, 314.051, 314.091, 314.103, 314.470, 314.991

STATUTORY AUTHORITY: KRS 314.041(7), 314.051(8), 314.101(4), 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement the provisions of KRS 314.011 to 314.991. KRS 314.041(7) and 314.051(8) authorize the board to issue a license to practice nursing as a registered nurse or a licensed practical nurse to an applicant who has passed the required examination or its equivalent and who was licensed to practice nursing in another jurisdiction. KRS 314.101(4) authorizes the board to issue a temporary work permit to a person who has completed the requirements for, applied for, and paid the fee for licensure by endorsement. This administrative regulation establishes the requirements for licensure by endorsement and establishes the requirements for a temporary work permit for an applicant to practice nursing while the application for a license is being processed.

Section 1. Eligibility for Licensure by Endorsement. (1) To be eligible for licensure by endorsement, an applicant shall:

(a)1. Have completed a state approved program of nursing equivalent to Kentucky requirements; or

2. Have completed that portion of a state-approved program of nursing that is equivalent to a Kentucky program of nursing;

(b) Have taken and passed the State Board Test Pool Examination or National Council Licensure Examination or an examination that is consistent with Section 4 of this administrative regulation;

(c) Complete the application form, as required by 201 KAR 20:370, Section 1(1);

(d) Submit the current fee for a licensure application, as established by 201 KAR 20:240;

(e) Report and submit a certified copy of each disciplinary action taken or pending on a nursing or other professional or business license by another jurisdiction and a letter of explanation;

(f) Submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction as required by 201 KAR 20:370, Section 1(3);

(g) Request the U.S. jurisdiction or territory or foreign country of initial licensure to submit to the board a verification of licensure by examination, which shall include the following information:

1.a. Name of the program of nursing completed and date of graduation, or

b. Name of the program of nursing attended and date of completion of the requirements for eligibility to take the licensure examination in that jurisdiction; and

2. A statement that the applicant's license has not been revoked, suspended, limited, probated, or otherwise disciplined by the licensing authority and is not subject to disciplinary action;

(h) Meet the requirement for completion of an educational

course on the human immunodeficiency virus and acquired immunodeficiency syndrome, as required by KRS 214.615;

(i) Submit a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI; and

(j) Submit evidence of completion of the jurisprudence examination required by KRS 314.041(4) for RN applications or KRS 314.051(4) for LPN applications as approved by the board [~~Submit evidence of completion of the clinical internship as required by KRS 314.041, 314.051, and Section 5 of this administrative regulation, if applicable~~].

(2) An application shall be valid for a period of six (6) months, except as provided for in section 5 of this administrative regulation. The applicant shall:

(a) Submit a copy of a marriage certificate, divorce decree, Social Security card, or court order to change the applicant's name, if the applicant's name is changed after the original application is filed; and

(b) Notify the board in writing as soon as a new address is established after submitting the application.

(3) After six (6) months, the applicant shall:

(a) Submit a new application;

(b) Submit the current licensure application fee; and

(c) Meet the requirements established in this section.

(4) The applicant shall complete the three (3) hour continuing education course on domestic violence within three (3) years of licensure as required by KRS 194A.540.

(5) An applicant shall not be licensed until a report is received from the FBI pursuant to the request submitted under subsection (1)(i) of this section and any conviction is addressed by the board.

Section 2. Nursing Practice and Continuing Education Requirements. (1) Except as provided in subsection (2) of this section, an applicant shall complete fourteen (14) contact hours in continuing education for each year since the last year in which the applicant is able to demonstrate at least 100 hours of practice.

(2) The requirement established in subsection (1) of this section shall not apply to an applicant who:

(a) Has been licensed for less than five (5) years from the date of initial licensure;

(b) Has been actively licensed and engaged in nursing practice for at least 500 hours during the preceding five (5) years; or

(c) Has not been engaged in nursing practice during the five (5) years preceding the date of the application. This applicant shall:

1. Complete a refresher course approved by the board, pursuant to 201 KAR 20:380, which shall have been completed within two (2) years of the date of the application; or

2. Complete at least 120 contact hours of continuing education earned within one (1) year of the date of the application.

(3) At least fourteen (14) contact hours shall have been earned within the twelve (12) months preceding the date of application for active Kentucky licensure status.

(4) Continuing education earned more than five (5) years preceding the date of application shall not be counted toward meeting the requirements established in subsections (1) and (3) of this section.

Section 3. Temporary Work Permit. (1) An applicant for licensure by endorsement who meets the requirements of Section 1(1)(a) through (f) and (i) and (j) of this administrative regulation shall be issued a temporary work permit.

(2) A temporary work permit shall be valid for a period not to exceed six (6) months.

(3) An individual who practices as a nurse in Kentucky without a current temporary work permit prior to issuance of a current active license shall be considered to be practicing without a license in violation of KRS 314.031 and shall be subject to the penalties listed in KRS 314.091 and 314.991.

Section 4. Licensing Examination Standards. An applicant who has taken an examination other than the State Board Test Pool Examination or the National Council Licensure Examination shall provide evidence to the board that the examination met the following standards of equivalency:

(1) Accepted psychometric procedures shall be used in the development of the examination;

(2) The examination shall be available to the board in the English language;

(3) The examination test plan blueprint shall be available for board review and adequately identifies test content and content weighting;

(4) Test items shall be available for board review and demonstrate the testing of competency necessary for safe practice;

(5) At least one (1) of the reliability estimates for the examination shall be 0.80 or higher;

(6) The examination shall be revised after each administration to insure currency and security of content; and

(7) The examination shall be given under strict security measures.

Section 5. [~~Clinical Internship. This section shall apply to applicants as required by KRS 314.041(7) or 314.051(8).~~

~~(1)(a) An applicant shall request a provisional license by completing the application for licensure required by Section 1 of this administrative regulation.~~

~~(b) The provisional license shall be issued if the applicant meets the requirements of Section 1(1)(a), (b), and (d) through (i) of this administrative regulation.~~

~~(2) To be eligible for a clinical internship, the applicant shall hold a current provisional license.~~

~~(3) A provisional license shall expire six (6) months from the date of issuance by the board and shall not be reissued unless the provisions of subsection (4) of this section apply.~~

~~(4) A person with a temporary physical or mental inability to complete the clinical internship shall:~~

~~(a) Complete the Petition To Hold Provisional License in Abeyance; and~~

~~(b) Submit evidence from a licensed health care practitioner that documents a diagnosis of a temporary physical or mental inability to complete the internship within the original six (6) months.~~

~~(5)(a) If the Petition To Hold Provisional License in Abeyance is granted, the current provisional license shall be void and shall be immediately returned to the board.~~

~~(b) The person whose petition has been granted shall not engage in nursing practice.~~

~~(6)(a)1. A person whose petition has been granted shall submit a written request to the board to reissue the provisional license if the temporary physical or mental inability has been resolved.~~

~~2. The request shall include the name, address, telephone number, date of birth, and Social Security number of the person.~~

~~3. The request shall also include written verification from a licensed health care practitioner that the temporary physical or mental inability has been resolved.~~

~~(b) Upon submission of the required documentation and approval by the board, the board shall reissue the provisional license for six (6) months.~~

~~(c) If the required documentation is submitted more than six (6) months from the date of the initial application for licensure, the person shall meet the requirements of Section 1 of this administrative regulation.~~

~~(7) Documentation of completion of the clinical internship shall be submitted to the board in writing or electronically and shall include the following:~~

~~(a) Name, address, telephone number, Social Security number, and date of birth of the applicant;~~

~~(b) Provisional license number;~~

~~(c) Name, address, and telephone number of the facility where the clinical internship was completed; and~~

~~(d) Name of the supervising nurse.~~

~~(8) To qualify as "direct supervision" under KRS 314.041(5) and 314.051(6), the nurse responsible for the applicant shall at all times be physically present in the facility and immediately available to the applicant while the applicant is engaged in the clinical internship.~~

~~(9) The nurse responsible for the applicant shall be currently licensed to practice as a nurse in Kentucky.~~

~~Section 6.~~] Applicants for LPN license pursuant to KRS 314.041(14). An applicant for an LPN license pursuant to KRS

314.041(14) shall meet the requirements of this administrative regulation.

Section 6 [~~7~~]. Nurse Licensure Compact Provisions. (1) An applicant who is issued a license and does not have permanent residency in Kentucky shall be issued a license that indicates on the license that it is only valid in Kentucky.

(2) The board may request that an applicant provide evidence of the applicant's state of residence.

Section 7 [~~8~~]. Incorporation by Reference. (1) "Petition to Hold Provisional License in Abeyance", 8/04, 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 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

Amended Administrative Regulation

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for licensure by endorsement for RNs and LPNs.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(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: House Bill 442 eliminated the clinical internship requirement and replaced it with a jurisprudence examination. The amendments reflect these changes. The amendments also clarify that a license will not be issued until the Board receives the criminal background report from the FBI and addresses any convictions.

(b) The necessity of the amendment to this administrative regulation: The regulation was unclear as to when a license would be issued. Also, House Bill 442 required the other changes.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue and making the changes required by HB 442.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for licensure by endorsement, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Applicants will no longer have to complete a clinical internship. They will have to complete the jurisprudence examination.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply other than the cost of the jurisprudence exam.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:215. Continuing competency requirements.

RELATES TO: KRS 314.011(12), 314.073, 314.991(1)-(3)
STATUTORY AUTHORITY: KRS 314.073, 314.131(1), (2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1), (2), and 314.073 require the Board of Nursing to promulgate administrative regulations to establish continuing competency requirements for nurses. This administrative regulation establishes the fees, procedures, and requirements for continuing competency for nurses.

Section 1. Definitions. (1) "Contact hour" means fifty (50) minutes of an approved, organized learning experience.

(2) "Earning period" means November 1 through October 31 of a current licensure period.

(3) "Preceptor" means an experienced and competent nurse who assumes responsibility to assist with the clinical practice experience of a nursing student or new employee by serving as a role model, teacher, and resource.

Section 2. (1) A licensee shall choose a method from Section 3 of this administrative regulation to validate his or her continued competency in nursing for each earning period.

(2) A licensee shall maintain the documentation of the method chosen.

(3) A licensee shall provide the documentation if directed by the board.

Section 3. Methods for continued competency validation are as follows:

(1) Fourteen (14) contact hours of continuing education which shall:

(a) Be from a provider approved by the board pursuant to 201 KAR 20:220 and earned during the licensure period; and

(b) Include the continuing education required by Section 5 of this administrative regulation;

(2) Current national certification or recertification and the continuing education required by Section 5 of this administrative regulation. The certification shall be related to the nurse's practice role and shall:

(a) Have been initially attained during the licensure period;

(b) If issued for a period of time as evidenced by an expiration date, have been in effect during the entire licensure period; or

(c) Have been recertified during the licensure period;

(3) The continuing education required by Section 5 of this administrative regulation and at least one (1) of the following during the licensure period:

(a) Completion of a research project that is nursing-related:

1. As principal investigator, coinvestigator, or project director;

2. That is qualitative or quantitative in nature;

3. That utilizes a research methodology;

4. That increases knowledge, causes an improved outcome, or changes behavior, and that is evidenced by an abstract of the project which includes a summary of the findings;

(b) Publication of a nursing-related article;

(c) A nursing continuing education presentation that is:

1. A presentation that is designed and developed by the presenter;

2. Presented to nurses or other health professionals; and

3. Evidenced by a program brochure, course syllabi, or a letter from the offering provider identifying the licensee's participation as the presenter of the offering;

(d) Participation as a preceptor for at least one (1) nursing student or new employee.

1. The preceptorship shall be for at least 120 hours.

2. There shall be a one-to-one relationship between the preceptor and the student or employee.

3. The preceptor may precept more than one (1) student or employee during the 120 hours.

4. The preceptorship shall be evidenced by written documentation from the educational institution or preceptor's supervisor; or

(4)(a) Seven (7) hours of continuing education from a provider approved by the board pursuant to 201 KAR 20:220 and earned during the licensure period which shall include the continuing education required by Section 5 of this administrative regulation if applicable; and

(b) A nursing employment evaluation that is satisfactory for continued employment. The evaluation shall:

1. Cover a period of at least six (6) months during the earning period;

2. Be signed by the nurse's supervisor; and

3. Include the name, address and telephone number of the employer.

(5) A nurse who renews a license for the first time following graduation from a prelicensure program of nursing shall utilize the following methods for continuing competency validation:

(a) if employed, either

1. the provisions of subsection (4) of this section or,

2. the provisions of subsection (4)(a) of this section and documentation of the nurse's completion of an orientation to the employer; or

(b) if not employed or is unable to provide proof of an orientation or an evaluation, the provisions of subsection (1) of this section.

Section 4. (1) A licensee shall provide documentation of the methods used to validate continued competency if the licensee is the subject of a disciplinary complaint.

(2) A licensee shall provide documentation of the methods used to validate continued competency if requested by the board pursuant to a random audit of licensees.

Section 5. (1) Registered nurses and licensed practical nurses shall earn a minimum of two (2) contact hours of HIV/AIDS education:

(a) Approved by the Cabinet for Health and Family Services pursuant to KRS 214.610; or

(b) Offered by a provider approved pursuant to 201 KAR 20:220.

(c) These contact hours shall be earned at least one (1) time every ten (10) years.

(2) Advanced practice registered nurses shall earn a minimum of five (5) contact hours in pharmacology.

(3) Sexual assault nurse examiners shall earn the continuing education required by 201 KAR 20:411, Section 8.

(4)(a) Registered nurses and licensed practical nurses licensed as of July 15, 2010 shall earn a minimum of one and one-half (1.5) contact hours in pediatric abusive head trauma as required by KRS 314.073(7) by December 31, 2013.

(b) Registered nurses and licensed practical nurses licensed after July 15, 2010 shall earn a minimum of one and one-half (1.5) contact hours in pediatric abusive head trauma as required by KRS 314.073(7) within three (3) years of licensure.

Section 6. (1)(a) A licensee shall maintain records to substantiate methods used to validate competency.

(b) All records shall be retained for at least five (5) years following the current licensure period, except for HIV/AIDS education records which shall be maintained for twelve (12) years.

(2)(a) A licensee shall, upon request, furnish to the board or its staff, legible copies of the records required to be maintained by subsection (1) of this section.

(b) Copies shall be furnished within thirty (30) days of the date a written request is mailed by first class to the last known address of the licensee or applicant.

(c) Failure to furnish records as required by this administrative regulation shall be cause for the issuance of a complaint pursuant to 201 KAR 20:161 for failure to comply with KRS 314.073(2).

(3)(a) Except as provided by paragraph (b) of this subsection, if the board determines that a licensee has failed to comply with the continuing competency requirements, he shall be allowed to cure the noncompliance if he:

1. Meets the continuing competency requirements within ninety (90) days of notification of noncompliance;

2. Enters a consent decree with the board; and

3. Pays a civil penalty imposed by the board pursuant to KRS 314.991.

(b) The board shall issue a complaint pursuant to 201 KAR 20:161 if:

1. A licensee fails to furnish records as requested pursuant to subsection (2) of this section; or

2. There is evidence of fraud or deceit in procuring or attempting to procure a license to practice nursing.

(4)(a) Partial credit for attendance at a continuing education activity shall not be given.

(b) A licensee who attends continuing education activities, whether as a presenter, participant, or student, shall attend the entire offering to be eligible to receive the number of contact hours for which the activity has been approved.

(5) It shall be the responsibility of each licensee to select and participate in those continuing education activities that will meet the criteria for acceptable continuing education.

(6) A licensee shall not repeat a continuing education offering within a licensure period.

Section 7. (1) Successful completion of a postlicensure academic course at a college, university, or postsecondary vocational institution shall qualify as a continuing education activity obtained from an approved provider if relevant to nursing practice under subsection 3 of this section.

(2) Contact hours shall be calculated as follows:

(a) One (1) semester or trimester hour of academic credit shall equal fifteen (15) contact hours; or

(b) One (1) quarter hour of academic credit shall equal twelve (12) contact hours.

(3) The following courses shall be relevant to nursing practice:

(a) A nursing course, designated by a nursing course number, and beyond the prelicensure curriculum of the individual licensee; or

(b) An academic course that is applicable to the nurse's role and beyond the prelicensure curriculum of the individual licensee.

(4) A licensee may request course review for approval of applicable nursing content pursuant to Section 8 of this administrative regulation.

(5) If it is an academic course in which grades are given, the licensee shall achieve a grade of "C" or better, or a pass on a pass-fail grading system.

Section 8. (1) A licensee may request an individual review of a nonapproved continuing education activity completed during the earning period if, within thirty (30) days after the expiration of the immediate past licensure period, the licensee has:

(a) Requested the review by submitting an "Application for Individual Review"; and

(b) Paid a fee of ten (10) dollars.

(2) The review shall be based on the standards established by:

(a) Sections 2 through 7 of this administrative regulation; and

(b) 201 KAR 20:220.

(3) Approval by the board of a nonapproved continuing education activity shall:

(a) Qualify it as having been obtained from an approved provider for the licensee requesting the review; and

(b) Be limited to the particular offering upon which the request for individual review is based.

(4) The board may offer continuing education hours for programs sponsored by the board. These continuing education hours shall be deemed to have been obtained from an approved provider. The board shall comply with all applicable provider standards.

Section 9. Incorporation by Reference. (1) "Application for Individual Review", 9/2005, Kentucky Board of Nursing, is incorporated by reference.

(2) This document may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 a.m. to 4:30 p.m.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for continuing competency for RNs and LPNs.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(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: HB 442 eliminated the exemption from continuing education for those licensees that renew for the first time. The amendments specify the methods of showing continuing competency for these individuals. HB 285 (2010) required all present and future nurses to complete a onetime course in pediatric abusive head trauma. The amendments specify how this requirement applies.

(b) The necessity of the amendment to this administrative regulation: HB 442 and 285 required the amendments.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By making the changes required by HB 442 and HB 285.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for renewal of license, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Applicants renewing for the first time will have to utilize one of the specified methods of showing continuing competency. All other applicants will have to complete the course in pediatric abusive head trauma.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There may be a cost for the continuing education courses. This is determined by the provider and the money goes to the provider, not the Board.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:225. Reinstatement of license.

RELATES TO: KRS 164.772, 194A.540, 314.041(11), 314.042(6), 314.051(11), 314.071, 314.073, 314.075, 314.085(1), 314.091

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement the provisions of KRS 314.011 to 314.991. KRS 314.041(11), 314.042(6), and 314.051(11) allow a person whose license has lapsed due to failure to renew to be able to reinstate the license. KRS 314.091 authorizes the board to discipline a licensee for a violation of the statutes or administrative regulations. This administrative regulation establishes procedures for reinstatement of a license that has lapsed or has been subject to disciplinary action.

Section 1. Reinstatement of Lapsed or Retired License. (1) A license shall be lapsed if it has expired because of the licensee's failure to:

(a) Submit a completed and timely application for renewal;

(b) Submit data required to enable the board to complete the processing of an application;

(c) Submit the current application fee; or

(d) Meet all requirements for renewal of a license, in accordance with KRS 314.071.

(2) A lapsed or retired license may be reinstated by:

(a) Submitting a completed application form required by 201 KAR 20:370, Section 1(1)(a) or (c);

(b) Paying the current application fee required by 201 KAR 20:240, Section 1(2)(g) or (m);

(c) Submitting a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is within six (6) months of the date of the application, the board receiving the report from the FBI, and any conviction is addressed by the board;

(d) Submitting a criminal record check report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is within six (6) months of the date of the application;

(e) Submitting a certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3);

(f) Submitting a letter of explanation that addresses each conviction, if applicable;

(g) Submitting a certified copy of any disciplinary action taken on a nursing or other professional or business license in another jurisdiction with a letter of explanation or report any disciplinary action pending on a nursing or other professional or business license in another jurisdiction; and

(h) Meeting all other requirements of this section.

(3)(a) If an individual applies for reinstatement of a lapsed license to active status, the applicant shall complete fourteen (14) contact hours of continuing education for each year since the date of last active licensure, if the date of last active licensure is within five (5) years of the application for reinstatement, but more than one (1) year from the date of last active licensure.

1. Fourteen (14) hours of continuing education shall have been earned within twelve (12) months of the date of the application.

2. Continuing education earned more than five (5) years preceding the date of application shall not be counted toward meeting this requirement.

(b) If an applicant has not been engaged in nursing practice during the five (5) years preceding the date of the application, the applicant shall:

1. Complete a refresher course approved by the board, pursuant to 201 KAR 20:380. The refresher course shall have been completed within two (2) years of the date of the application; or

2. Complete at least 120 contact hours of continuing education earned within one (1) year of the date of the application.

(c) An individual may use the continuing competency methods set out in 201 KAR 20:215, Section 3 for reinstatement if that individual[~~:~~

~~1. Was exempt from the contact hour earning requirement pursuant to KRS 314.073(1) and applies for reinstatement of a lapsed license within one (1) year from the date of lapse; or~~

~~2.~~] Allowed the license to lapse and applies for reinstatement of a lapsed license within one (1) year from the date of lapse.

(d) Continuing competency used for reinstatement pursuant to paragraph (c) of this subsection shall not be used for renewal of the license.

(4)(a) If the applicant has been currently licensed and actively engaged in nursing practice in another jurisdiction for at least 500 hours during the preceding five (5) years, the requirements of subsection (3) of this section shall not apply.

(b) The applicant shall submit evidence to verify active practice.

(5) In addition to the requirements of this administrative regulation, an applicant whose license has lapsed for one (1) year or more shall submit evidence of completion of the jurisprudence examination required by KRS 314.041(11) for registered nurses and KRS 314.051(11) for licensed practical nurses as approved by

the board.

Section 2. Reinstatement of License Subject to Disciplinary Action. (1) If a license has been revoked, an individual may apply for reinstatement by:

(a) Completing the appropriate application required by 201 KAR 20:370, Section 1(1)(a) or (c);

(b) Paying the current application fee required by 201 KAR 20:240, Section 1(2)(g) or (m);

(c) Meeting the terms of the disciplinary order; and

(d) Retaking the licensure examination and achieving a passing score.

(2) A hearing shall be held to determine if the issuance of a license would no longer be a threat to public safety and health.

(3)(a) If a license has been suspended or voluntarily surrendered, an individual may apply for reinstatement by:

1. Completing an application required by 201 KAR 20:370, Section 1(1)(a) or (c);

2. Paying the fee required by 201 KAR 20:240, Section 1(2)(g) or (m); and

3. Notifying the board, in writing, that the requirements of the decision or agreed order have been met.

(b) If the decision or agreed order requires that a hearing be held, the individual shall notify the board, in writing, to request that a hearing be scheduled.

(4) An individual whose license has been suspended or voluntarily surrendered shall be required to comply with the continuing education requirements of KRS 314.073 for the period during which the license was suspended or surrendered.

(5)(a) If a license has been probated and the individual has allowed the license to expire prior to the end of the probationary period, and the individual later applies for reinstatement, the license shall be reinstated subject to the remaining probationary period.

(b) The individual shall comply with all requirements for reinstatement, in accordance with KRS 314.071.

(6)(a) A person may seek reinstatement of a license pursuant to subsection (3) of this section, if an order of immediate temporary suspension has been issued pursuant to:

1. KRS 314.085(1) because of a person's failure to obtain an evaluation and the person subsequently obtains the evaluation;

2. KRS 314.075 because of a person's submission of a bad check and the person subsequently makes the check good; or

3. KRS 164.772 because of a notice from the Kentucky Higher Education Assistance Authority that a person is in default of a student loan and the Kentucky Higher Education Assistance Authority subsequently notifies the board that the person is no longer in default.

(b) A request for reinstatement of a license following the issuance of an order of immediate temporary suspension as listed in paragraph (a) of this subsection may be denied, if in the opinion of the board, continuance of the temporary suspension is necessary in order to protect the public.

Section 3. Miscellaneous Requirements. (1) (a) A copy of an official name change document shall be submitted by the applicant if making application, if applicable.

(b) Verification of the name change shall be made by submitting a copy of a:

1. Court order;

2. Marriage certificate;

3. Divorce decree; or

4. Social Security card.

(2) An individual whose license lapsed, was suspended, or voluntarily surrendered prior to July 15, 1996 shall earn three (3) hours of continuing education in domestic violence within three (3) years of reinstatement of the license as required by KRS 194A.540.

(3) An individual who holds a nursing license that was revoked by disciplinary order of the board prior to December 31, 1987 shall meet all requirements of Section 2 of this administrative regulation except Section 2(1)(d) of this administrative regulation.

(4) An individual whose license lapsed, was suspended, or voluntarily surrendered prior to July 15, 2010 shall earn one and one-half (1.5) hours of continuing education in pediatric abusive head trauma as required by KRS 314.073(7) within three (3) years of reinstatement of the license.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for reinstatement of a license for RNs and LPNs.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(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: HB 442 eliminated the clinical internship requirement and replaced it with a jurisprudence examination. It also eliminated the exemption from continuing education for those licensees who renew their license for the first time. The amendments reflect these changes. The amendments also clarify that a license will not be issued until the Board receives the criminal background report from the FBI and addresses any convictions. The amendments also add a requirement for certain applicants to complete a course in pediatric abusive head trauma, pursuant to HB 285 (2010).

(b) The necessity of the amendment to this administrative regulation: The regulation was unclear as to when a license would be issued. Also, HB 442 (2011) and HB 285 (2010) required the other changes.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue and making the changes required by HB 442 and HB 285.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for reinstatement of licensure, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative

regulation or amendment:
Applicants who reinstate after one year will have to complete the jurisprudence examination. Applicants whose license lapsed prior to July 15, 2010 will have to complete a course in pediatric abusive head trauma.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply other than the cost of the jurisprudence exam and the continuing education course.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 61.874(3), 314.041(8), (10)(d), 314.042(3), (6), 314.051(2), (10)(d), 314.071(1), (2), 314.073(7), 314.142(1)(b), 314.161

STATUTORY AUTHORITY: KRS 61.874(3), 314.041(8), (10)(d), 314.042(3), (6) 314.051(2), (10)(d), 314.071(1), (2), 314.073(7), 314.131(1), 314.142(1)(b), 314.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.142(1)(b) requires the board to establish an application fee for a registered nurse who applies to the board to be credentialed as a "sexual assault nurse examiner". KRS 314.161 authorizes the board to establish fees necessary to implement KRS Chapter 314. KRS 314.041(8), (10)(d), 314.042(3), (6), 314.051(2), (10)(d), 314.071(1), (2), and 314.073(7) require the board to establish fees for licensure, examination, renewal, reinstatement, and continuing education. This administrative regulation establishes those fees.

Section 1. Fees for Licensure Applications. (1) The board shall collect a fee for:

(a) An application for licensure; and

(b) Licensure renewal or reinstatement.

(2) The fee for an application shall be:

(a) Licensure by endorsement as a registered nurse - $150.

(b) Licensure by endorsement as a licensed practical nurse - $150.

(c) Licensure by examination as a registered nurse - $110.

(d) Licensure by examination as a licensed practical nurse - $110.

(e) Renewal of license - forty (40) dollars.

(f) Retired status - twenty-five (25) dollars.

(g) Reinstatement of license - $120.

(h) Paper copy of an application - forty (40) dollars.

(i) Full verification of licensure, credential or registration history - fifty (50) dollars.

(j) Duplicate license or registration card or letter - thirty-five (35) dollars.

(k) Licensure as an advanced practice registered nurse - $150.

(l) Renewal of licensure as an advanced practice registered nurse - forty (40) dollars.

(m) Reinstatement of licensure as an advanced practice registered nurse - $120.

(n) Name change - twenty-five (25) [~~thirty-five (35)~~] dollars.

(o) Application to establish a registered nurse or licensed practical nurse prelicensure program of nursing pursuant to 201 KAR 20:280 - $2,000.

(p) Application to establish a doctor of nursing practice program pursuant to 201 KAR 20:061, Section 1 - $250.

(q) Application to establish a doctor of nursing practice program pursuant to 201 KAR 20:061, Section 2 - $2,000.

(r) Application to approve an advanced practice registered nurse program pursuant to 201 KAR 20:062, Section 3 - $250.

(s) Application to establish an advanced practice registered nurse program pursuant to 201 KAR 20:062, Section 4 - $2,000.

(3) An application shall not be evaluated unless the current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The fee for an application for approval of a provider of continuing education or for a renewal or reinstatement of the approval shall be:

(1) Initial provider approval - $400.

(2) Reinstatement of provider approval - $400.

(3) Renewal of approval - $200.

(4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services. (1) The fee for a service shall be:

(a) Validation of the current status of a temporary work permit, provisional license, license, or credential:

1. If requested in writing in individual nurse format - fifty (50) dollars.

2. If requested in writing in list format - fifty (50) dollars for the first name and twenty (20) dollars for each additional name.

(b) Copy of an examination result or transcript - twenty-five (25) dollars.

(c) Nursing certificate - thirty (30) dollars.

(d) Release of NCLEX results to another state board of nursing - seventy-five (75) dollars.

(2) An applicant for licensure who takes or retakes the licensure examination shall pay:

(a) The current examination fee required by the national council of state boards of nursing; and

(b) Application for licensure fee pursuant to Section 1 of this administrative regulation.

(3) A graduate of a foreign school of nursing shall be responsible for:

(a) Costs incurred to submit credentials translated into English;

(b) Immigration documents; and

(c) Other documents needed to verify that the graduate has met Kentucky licensure requirements.

Section 4. An application shall lapse and the fee shall be forfeited if the application is not completed as follows:

(1) For an application for licensure by endorsement, within six (6) months from the date the application form is filed with the board office.

(2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office.

(3) For all other applications, except for renewal of license applications, within one (1) year from the date the application form is filed with the board office.

Section 5. An applicant who meets all requirements for approval, licensure, or credential shall be issued the appropriate approval, license, or credential without additional fee.

Section 6. Fees for Sexual Assault Nurse Examiners. (1) The application fee shall be $120.

(2) The credential renewal fee shall be thirty-five (35) dollars.

(3) The credential reinstatement fee shall be $120.

Section 7. A payment for an application fee that is in an incorrect amount shall be returned and the application shall not be posted until the correct fee is received.

Section 8. Bad Transaction Fee. Any transaction, including paper or electronic, submitted to the board for payment of a fee which is returned for nonpayment shall be assessed a bad transaction fee of thirty-five (35) dollars.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 fees for applications and services.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting fees.

(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 lowers the fee for a name change from $35 to $25.

(b) The necessity of the amendment to this administrative regulation: The Board has ceased issuing plastic licenses. Therefore, the administrative costs to change a nurse's name are less.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set fees.

(d) How the amendment will assist in the effective administration of the statutes: By setting the appropriate fee.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Requests for a name change, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
Requesters will pay a lower fee for a name change.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The new fee is $25.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It establishes fees but there is no increase at this time.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Unknown.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Unknown.

(c) How much will it cost to administer this program for the first

year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.

RELATES TO: KRS 314.111, 314.470

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations necessary to enable it to carry into effect the provisions of KRS Chapter 314. This administrative regulation establishes standards for faculty of programs of nursing which prepare graduates for licensure as registered nurses or practical nurses.

Section 1. Definition. "Nursing experience" means employment in a position that requires the individual to hold an active nursing license, such as nursing clinical practice, nursing administration, nursing education, or nursing research.

Section 2. Faculty for Prelicensure Registered Nurse and Practical Nurse Programs. (1)(a) The faculty shall include a program administrator and shall include at least two (2) nurse faculty (one (1) of whom may also serve as program administrator). The faculty may include clinical instructors in the major areas of nursing practice. The faculty shall be adequate in number to implement the curriculum as determined by program outcomes, course objectives, the level of the students, the number of students and classes admitted annually, and any additional secondary site, or continuing education programs conducted, and the educational technology utilized.

(b) The program administrator and all nurse faculty and clinical instructors shall be appointed by and be responsible to the governing institution of the program of nursing.

(c) A program of nursing shall designate an assistant program administrator for a secondary site.

(d) A program shall develop and implement a plan of organization and administration that clearly delineates the lines of authority, accountability, and responsibility among all program locations and assistant program administrators.

(2) The program administrator for a Registered Nurse program shall have the following qualifications:

(a) A minimum of a masters or higher degree in nursing from an accredited college or university;

(b) A minimum of five (5) years of nursing experience within the immediate past ten (10) years and demonstrated leadership experience;

(c) A minimum of two (2) years of full time teaching experience at or above the academic level of the program of nursing; and

(d) An unencumbered current license, privilege, or temporary work permit to practice as a registered nurse in the Commonwealth of Kentucky.

(3) The program administrator for a Practical Nurse program shall have the following qualifications:

(a) A baccalaureate or higher degree with a major in nursing from an accredited college or university;

(b) A minimum of five (5) years of nursing experience within the past ten (10) years with demonstrated leadership experience;

(c) Current unencumbered license, privilege, or temporary work permit to practice as a registered nurse in the Commonwealth of Kentucky.

(d) A minimum of two (2) years full time teaching experience at or above the academic level of the program of nursing; and

(e) A current knowledge of nursing practice at the practical or vocational level.

(4)(a) Nurse faculty or an assistant program administrator in a baccalaureate degree prelicensure registered nurse program shall hold a degree from an accredited college or university which shall include:

1. A masters degree within the discipline of nursing or have completed that portion that would be equivalent to a masters in nursing degree; or

2. A baccalaureate degree with a major in nursing and a masters degree in a related field which includes a minimum of eighteen (18) graduate hours in nursing. The eighteen (18) graduate hours in nursing may also be earned independently of the related masters degree.

(b) Nurse faculty or an assistant administrator in an associate degree prelicensure registered nurse program shall hold a degree from an accredited college or university which shall include:

1. A masters degree within the discipline of nursing or have completed that portion of a nursing program that would be equivalent to a masters in nursing degree;

2. A baccalaureate degree with a major in nursing and a masters degree in a related field which includes a minimum of eighteen (18) graduate hours in nursing. The eighteen (18) graduate hours in nursing may also be earned independently of the related masters degree; or

3. A baccalaureate degree with a major in nursing or have completed that portion of a state approved program of nursing that would be equivalent to a baccalaureate degree, and the nurse faculty member shall complete within five (5) years of hire a masters degree commensurate with either subparagraph 1 or 2 of this paragraph.

(c) Nurse faculty or an assistant administrator in a practical nurse program shall have a minimum of a baccalaureate degree with a major in nursing from an accredited college or university.

(d) The nurse faculty shall hold a temporary work permit or a current license or privilege to practice as a registered nurse in the Commonwealth of Kentucky.

(e) The nurse faculty shall document a minimum of two (2) years full time or equivalent experience as a registered nurse within the immediate past five (5) years and shall maintain expertise appropriate to teaching responsibilities.

(f) The nurse faculty shall document preparation in educational activities in the area of teaching and learning principles for adult education, including curriculum development and implementation. The preparation shall be acquired through planned faculty in-service learning activities, continuing education offerings, or academic courses.

(g) Nurse faculty shall maintain expertise in the clinical or functional area of responsibility.

(h) Nurse faculty hired without prior teaching experience shall have a mentor assigned and an educational development plan implemented.

(i) Nonnurse faculty members who teach nursing courses required within the curriculum shall have appropriate academic and experiential qualifications for the program areas in which they participate. Nonnurse faculty shall be required to collaborate with a nurse faculty member in order to meet the nursing course outcomes.

(j) Nurse faculty who teach on-line and will not physically practice within the state shall hold an unencumbered active nursing license or multistate privilege to practice as a registered nurse in the state where they are located.

Section 3. Clinical Preceptors. (1) A clinical preceptor may be used to enhance clinical learning experiences, after a student has received clinical and didactic instruction from the program faculty in all basic areas for the course or specific learning experience.

(2) A clinical preceptor shall hold a current unencumbered license, privilege, or temporary work permit to practice as a registered nurse in Kentucky. In a practical nursing program, a clinical preceptor may hold a current unencumbered license, privilege or temporary work permit to practice as a licensed practical nurse in

Kentucky.

(3) A clinical preceptor shall have evidence of clinical competencies related to the area of assigned clinical teaching responsibilities and serve as a role model to the student.

(4) A clinical preceptor shall not be used to replace clinical instructors. Clinical instructors or nurse faculty retain responsibility for student learning and confer with the clinical preceptor and student for monitoring and evaluating learning experiences.

(5) There shall be documentation of orientation to the course, program outcomes, student learning objectives, evaluation methods to be utilized, and documented role expectations of faculty, preceptor, and student.

Section 4. Evaluation of Registered Nurse Program and Practical Nurse Program Faculty. (1) Evaluation of faculty records. The program administrator shall submit to the board the qualifications of nurse faculty and clinical instructors upon appointment.

(a) Official academic transcripts or copies verified by the nurse administrator or designee shall be available to the board upon request.

(b) A complete and official record of qualifications and workload for each faculty member shall be on file and available to the board upon request.

(c) Faculty appointments shall be reported to the board in writing.

(d) The program administrator shall report a change in faculty composition within thirty (30) days of appointment or vacancy.

(2) Reevaluation of faculty records. The board shall review annually the qualifications of the faculty employed in the program of nursing.

Section 5. Faculty Supervision of Student Clinical Practice. (1) The ratio of students to a nurse faculty member or clinical instructor is set by 201 KAR 20:260, Section 1(3).

(2) The clinical instructor shall function under the guidance of the nurse faculty responsible for a given course.

(3) For Registered Nurse educational programs, the educational preparation of the clinical instructor shall at least equal the level of the appointing program.

(4) The clinical instructor shall hold a current unencumbered license, privilege, or temporary work permit to practice as a registered nurse in Kentucky or in the state of the student's clinical site.

(5) A clinical instructor shall have a minimum of two (2) years full time or equivalent experience within the functional area as a registered nurse within the immediate past five (5) years and evidence of clinical competence.

Section 6. Faculty Waiver. (1) All nurse faculty members are expected to meet qualifications as set forth in this administrative regulation. The program administrator may request a time-limited temporary waiver if a program of nursing meets the following criteria:

(a) Full approval status;

(b) Program NCLEX pass rate for first time test takers for the preceding year of a minimum of eighty-five (85) percent;

(c) The program has not requested a waiver for the previous two (2) years; and

(d) Faculty turnover for the past academic year does not exceed thirty (30) percent.

(2) A maximum of two (2) faculty waivers shall be permitted at any one time per program.

(3) The waiver shall be requested by the program administrator. The faculty appointment shall not be implemented by the program until the board has approved it.

(4) A waiver shall be limited to one (1) time for any individual.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for faculty for prelicensure RN and LPN programs of nursing.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

(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 clarifies that faculty that teach only on line from another state do not have to be licensed in Kentucky, only in the state where they are located.

(b) The necessity of the amendment to this administrative regulation: The regulation was unclear as to licensure for on line faculty.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: on line nurse faculty, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
No action is necessary.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation estab-

lished any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

RELATES TO: KRS 216B.400(2), 314.142, 314.470, 421.500-421.550

STATUTORY AUTHORITY: KRS 314.131(1), 314.142(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. 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 or a multistate licensure privilege pursuant to KRS 314.470, 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 if 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, 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 instruction-

al 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 the board standards described in this administrative regulation.

Section 5. The board may deny, revoke, or suspend the approval status of a SANE course for violation of this administrative regulation.

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 or a multistate licensure privilege pursuant to KRS 314.470;

(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 "Sexual Assault Nurse Examiner Application for Credential";

(e) Pay the fee established in 201 KAR 20:240;

(f) Provide a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is within six (6) months of the date of the application;

(g) Provide a report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is within six (6) months of the date of the application;

(h) Provide a certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(i) Provide a letter of explanation that addresses each conviction, if applicable.

(2) Upon completion of the application process, the board shall issue the SANE credential for a period ending October 31.

(3) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (1)(f) of this section and any conviction is addressed by the board.

Section 8. Renewal. (1) To renew the SANE credential for the next 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 "SANE Renewal Application" 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 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 four (4) 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;

(c) Submitting evidence of earning the continuing education requirement for the number of registered nurse licensure periods since the SANE credential lapsed;

(d) Providing a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is within six (6) months of the date of the application;

(e) Providing a report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is within six (6) months of the date of the application;

(f) Providing a certified copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3); and

(g) Providing a letter of explanation that addresses each conviction, if applicable.

(2) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (1)(d) of this section and any conviction is addressed by the board.

(3) If the SANE credential has lapsed for more than four (4) 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) "Sexual Assault Nurse Examiner Application for Credential", 6/2010, Kentucky Board of Nursing;

(c) "SANE Renewal Application", 4/2007, Kentucky Board of Nursing; and

(d) "Annual SANE Credential Renewal Application for RN Compact License", 4/2007, Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:30 a.m. to 4:30 p.m.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for credentialing of Sexual Assault Nurse Examiners (SANE) and SANE training programs standards.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements and standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements and standards.

(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 clarifies that a SANE credential will not be issued until the Board receives the criminal background report from the FBI and addresses any convictions.

(b) The necessity of the amendment to this administrative regulation: The regulation was unclear as to when a credential would be issued.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for SANE credential, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Applicants for a SANE credential will not be fully credentialed until the FBI criminal background check report is received.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amendment)

201 KAR 20:470. Dialysis technician credentialing requirements and training program standards.

RELATES TO: KRS 314.035, 314.137

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians. This administrative regulation establishes the requirements for dialysis technician training programs

and for credentialing dialysis technicians.

Section 1. Definitions. (1) "Approved dialysis technician training program" means a program to train dialysis technicians that is approved by the board.

(2) "Central venous catheter" means a catheter that is inserted in such a manner that the distal tip is located in the superior vena cava.

(3) "Dialysis technician applicant" means an individual who has applied for a dialysis technician credential.

(4) "Dialysis technician trainee" means an individual who is enrolled in an approved dialysis technician training program.

(5) "Supervision" means initial and ongoing direction, procedural guidance, observation, and evaluation by a registered nurse or physician, and when a patient is being dialyzed the registered nurse or physician is in the immediate clinical area.

Section 2. Requirements for Dialysis Technician Credential. (1)(a) An individual who applies to be credentialed as a dialysis technician in order to engage in dialysis care shall:

1. File with the board the "Application for Dialysis Technician Credential";

2. Have completed an approved dialysis technician training program or an out-of-state dialysis training program pursuant to subsection (1)(b) of this section;

3. Pay the fee established in Section 12 of this administrative regulation;

4. Provide a criminal record check report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is dated within six (6) months of the date of the application;

5. Provide a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is within six (6) months of the date of the application;

6. Provide to the board a certified copy of the court record of any misdemeanor or felony conviction from any jurisdiction, except for traffic-related misdemeanors (other than DUI) or misdemeanors older than five (5) years; and

7. Provide to the board a letter of explanation that addresses each conviction.

(b)1. If the dialysis technician applicant has completed an out-of-state dialysis technician training program, the applicant shall submit the training program curriculum and evidence of completion to the board. The board or its designee shall evaluate the applicant's
training program to determine its comparability with the standards as stated in Section 7 of this administrative regulation.

2. The board or its designee shall advise an applicant if the training program is not comparable and specify what additional components shall be completed to meet the requirements of Section 7 of this administrative regulation.

3. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall be required to complete that portion of a board-approved dialysis technician training program related to specific portions of the legal and ethical aspects of practice as set forth in the "Dialysis Technician Training Program Guide". An applicant shall submit evidence to the board of successful completion of the following sections:

a. State and federal regulations governing dialysis;

b. The principles and legal aspects of documentation, communication and patient rights;

c. The roles of the dialysis technician and other multidisciplinary team members; and

d. Principles related to patient safety.

4. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall submit the "Checklist for Dialysis Technician Competency Validation" signed by the applicant's immediate supervisor in Kentucky. The "Checklist for Dialysis Technician Competency Validation" shall be filed after the submission of the "Application for Dialysis Credential".

5. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall submit evidence of:

a. Successful completion of a comprehensive, written final examination from a board-approved dialysis technician training program; or

b. Dialysis technician certification issued within the past two (2) years by the Nephrology Nursing Certification Commission, the Board of Nephrology Examiners Nursing and Technology, or the National Nephrology Certification Organization.

(2) An individual shall be exempt from the credentialing requirement while enrolled in an approved dialysis technician training program. The individual shall use the title dialysis technician trainee.

(3) Upon approval of the application, the board shall initially issue the dialysis technician credential for twenty-four (24) months following the month of issuance. The credential shall lapse on the last day of the credentialing period.

(4)(a) An applicant for a dialysis technician credential may engage in dialysis care as a dialysis technician applicant upon:

1. Receipt by the board of the "Application for Dialysis Technician Credential"; and

2. Meeting the requirements of subsection (6) of this section.

as an applicant until:

1. The credential is issued; or

2. The application is denied by the board.

(5) An "Application for Dialysis Technician Credential" submitted for initial credentialing shall be valid for six (6) months from the date of receipt by the board.

(6) A felony or misdemeanor conviction shall be reviewed to determine whether:

(a) The application shall be processed with no further action; or

(b) The application shall be processed only after:

1. The applicant has entered into an agreed order with the board with terms and conditions as agreed by the parties; or

2. If the parties are unable to agree on terms and conditions, a hearing is held pursuant to KRS 314.091 and 201 KAR 20:162, and a final decision is entered by the board.

(7) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (1)(a)5 of this section and any conviction is addressed by the board.

Section 3. Renewal. (1) To be eligible for renewal of the credential, the dialysis technician shall submit, no later than one (1) month prior to the expiration date of the credential:

(a) The "Application for Renewal of the Dialysis Technician Credential"; and

(b) The fee established in Section 12 of this administrative regulation.

(2) Upon approval of the application, the credential shall be renewed for twenty-four (24) months. The credential shall lapse on the last day of the credentialing period.

(3) A dialysis technician shall report to the board at the time of renewal the name of the national certification program that has issued the technician's certification and provide a copy of the certification certificate to the board.

Section 4. Reinstatement. (1) Before beginning practice as a dialysis technician or a dialysis technician applicant, the individual shall meet the requirements of this section. If the dialysis technician credential has lapsed for a period of less than one (1) credentialing period, the individual may reinstate the credential by:

(a) Submitting the "Application for Dialysis Technician Credential";

(b) Paying the fee established in Section 12 of this administrative regulation; and

(c) Providing a criminal record check report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is dated within six (6) months of the date of the application.

(2) If the dialysis technician credential has lapsed for more than one (1) credentialing period, the dialysis technician may reinstate the credential by:

(a) Completing a board-approved dialysis technician training program before submitting the "application for Dialysis Technician Credential". While enrolled in a training program, the individual shall be referred to as a dialysis technician trainee;

(b) Submitting the "Application for Dialysis Technician Credential";

(c) Paying the fee established in Section 12 of this administra-

tive regulation;

(d) Submitting the "Checklist for Dialysis Technician Competency Validation" signed by the individual's immediate supervisor;

(e) Providing a criminal record check report from the Kentucky Administrative Office of the Courts, Courtnet Disposition System that is dated within six (6) months of the date of application; and

(f) Providing a completed Federal Bureau of Investigation (FBI) Applicant Fingerprint Card and the fee required by the FBI that is dated within six (6) months of the date of the application.

(3) An "Application for Dialysis Technician Credential" submitted for reinstatement shall be valid for six (6) months from the date of receipt by the board.

(4) Upon approval of the application, the credential shall be reinstated for twenty-four (24) months following the month of issuance. The credential shall lapse on the last day of the credentialing period.

(5) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted under subsection (2)(f) of this section and any conviction is addressed by the board.

Section 5. Scope of Practice. (1) The scope of practice of a dialysis technician shall include the following and shall be performed under the direct, on-site supervision of a registered nurse or a physician:

(a) Preparation and cannulation of peripheral access sites (arterial-venous fistulas and arterial-venous grafts);

(b) Initiating, delivering or discontinuing dialysis care;

(c) Administration of the following medications only:

2. Normal saline via the dialysis machine to correct dialysis-induced hypotension based on the facility's medical protocol. Amounts beyond that established in the facility's medical protocol shall not be administered without direction from a registered nurse or a physician.

3. Intradermal lidocaine, in an amount prescribed by a physician, physician's assistant, or advanced practice registered nurse;

(d) Assistance to the registered nurse in data collection;

(e) Obtaining a blood specimen via a dialysis line or a peripheral access site;

(f) Responding to complications that arise in conjunction with dialysis care; and

(g) Performance of other acts as delegated by the registered nurse pursuant to 201 KAR 20:400.

(2) The scope of practice of a dialysis technician shall not include:

(a) Dialysis care for a patient whose condition is determined by the registered nurse to be critical, fluctuating, unstable, or unpredictable;

(b) The connection and disconnection of patients from, and the site care and catheter port preparation of, percutaneously or surgically inserted central venous catheters; and

(c) The administration of blood and blood products.

Section 6. Discipline of a Dialysis Technician. (1) A dialysis technician, an employer of dialysis technicians, or any person having knowledge of facts shall report to the board a dialysis technician who may have violated any provision of this administrative regulation.

(2) The board shall have the authority to discipline a dialysis technician for:

(a) Failure to safely and competently perform the duties of a dialysis technician as stated in Section 5 of this administrative regulation;

(b) Practicing beyond the scope of practice as stated in Section 5 of this administrative regulation;

(c) Conviction of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. A "conviction" shall include pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime;

(d) Obtaining or attempting to obtain a credential by fraud or deceit;

(e) Abusing controlled substances, prescription medications, or alcohol;

(f) Misuse or misappropriation of any drug placed in the custody of the dialysis technician for administration, or for use of others;

(g) Falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records;

(h) Having a dialysis technician credential disciplined by another jurisdiction on grounds sufficient to cause a credential to be disciplined in this Commonwealth;

(i) Practicing without filing an "Application for Dialysis Technician Credential" or without holding a dialysis technician credential;

(j) Abuse of a patient;

(k) Theft of facility or patient property;

(l) Having disciplinary action on a professional or business license;

(m) Violating any lawful order or directive previously entered by the board;

(n) Violating any administrative regulation promulgated by the board; [~~or~~]

(o) Having been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or

(p) Having violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law.

(3) The discipline may include the following:

(a) Immediate temporary suspension of the credential, following the procedure set out in KRS 314.089;

(b) Reprimand of the credential;

(c) Probation of the credential for a specified period of time, with or without limitations and conditions;

(d) Suspension of the credential for a specified period of time;

(e) Permanent revocation of the credential; or

(f) Denying the application for a credential.

(4) The board shall follow the procedures set out in and have the authority set forth
in KRS 314.091, 201 KAR 20:161, and 20:162 for management and resolution of complaints filed against a dialysis technician.

(5) In addition to the provisions of subsection (3) of this section, the board may impose a civil penalty of up to $10,000.

Section 7. Dialysis Technician Training Program Standards. (1) Program administrator. A registered nurse, holding a current Kentucky license, temporary work permit, or multistate privilege, with at least one (1) year of experience in dialysis care, shall be administratively responsible for planning, development, implementation, and evaluation of the dialysis technician training program. The name, title, and credentials identifying the educational and professional qualifications of the program administrator shall be provided to the board. A change in the program administrator shall be reported to the board within thirty (30) days of the change.

(2) Faculty qualifications. The dialysis technician training program shall be taught by multidisciplinary faculty with expertise in the subject matter. The name, title, and credentials identifying the educational and professional qualifications of each didactic and clinical instructor shall be provided to the board.

(3) The dialysis technician training program shall be based upon the "Dialysis Technician Training Program Guide".

(4) The dialysis technician training program syllabus shall include:

(a) Prerequisites for admission to the program;

(b) Program outcomes. The outcomes shall provide statements of measurable competencies to be demonstrated by the learner; supportive content identified;

(d) Content. The content shall be described in outline format with corresponding time frame and testing schedules;

(e) Teaching methods. The activities of both instructor and learner shall be specified. These activities shall be congruent with stated objectives and content, and reflect application of adult learning principles;

(f) Instructional or reference materials. All required instructional reference materials shall be identified; and

(g) Evaluation. There shall be clearly defined criteria for evaluating the learner's achievement of program outcomes. There shall also be a process for annual program evaluation by trainees, program administrator, faculty, and employers.

(5) Any proposed substantive changes to the dialysis technician training program syllabus after initial submission shall be submitted to the board in writing and shall not be implemented without approval from the board.

(6) Trainee clinical practice requirements. The dialysis technician trainee enrolled in a dialysis technician training program shall practice dialysis care incidental to the training program only under the supervision of a faculty member, or his designee.

(7) The dialysis technician training program shall be at least 400 hours in length. A minimum of 200 hours shall be didactic.

(8) Completion requirements. Requirements for successful completion of the dialysis technician training program shall be clearly specified. The requirements shall include demonstration of clinical competency and successful completion of a comprehensive, written final examination. The final examination shall be administered only during the final forty (40) hours of the training program. There shall be a statement of policy regarding a trainee who fails to successfully complete the training program.

(9) The program shall establish a written records retention plan describing the location and length of time records are maintained. At a minimum, the following records shall be maintained by the program:

(a) Provider name, dates of program offerings, and sites of the training program;

(b) The program code number issued by the board; and

(c) Trainee roster, with a minimum of name, date of birth, Social Security number, and program completion date.

(10) An individual who successfully completes the training program shall receive a certificate of completion that documents the following:

(a) Name of individual;

(b) Title of training program, date of completion, and location;

(c) Provider’s name;

(d) The program code number issued by the board; and

(e) Name and signature of program administrator.

(11) The program shall submit the "List of Dialysis Technician Training Program Graduates" within three (3) working days of the program completion date.

(12) The program shall notify the board in writing within thirty (30) days of a training program closure. The notification shall include the date of closing, a copy of the program trainee roster from the date of the last renewal to the date of closing, the location of the program's records as defined in subsection (9) of this section, and the name and address of the custodian of the records.

(13) A dialysis technician training program that conducts either the didactic portion or the clinical portion in this state shall be required to be approved by the board and the program shall meet the requirements of this section.

Section 8. Dialysis Technician Training Program Initial Approval. (1) To receive initial approval, a dialysis technician training program shall:

(a) File an "Application for Dialysis Technician Training Program Approval"; and

(b) Pay the fee established in Section 12 of this administrative regulation.

(2) Board approval for a dialysis technician training program that meets the requirements of this administrative regulation shall be granted for a two (2) year period from the date of approval.

(3) Upon approval, the board shall issue a program code number.

(a) File an "Application for Dialysis Technician Training Program Approval";

(b) Submit an annual program evaluation summary report and any actions taken as a result of the evaluation as required by Section 7(4)(g) and (5) of this administrative regulation;

(c) Submit a list of current faculty including the name, title, and credential identifying the educational and professional qualifications of each instructor;

(d) Submit a copy of the program trainee roster for the past two (2) years as required by Section 7(9)(c) of this administrative regulation; and

(2) The application shall be submitted at least two (2) months prior to the end of the current approval period.

(3) Continued approval shall be based on compliance with the standards set out in Section 7 of this administrative regulation.

(4) Continued approval shall be granted for a two (2) year period.

(5) If a program fails to maintain continued approval, the approval shall lapse.

Section 10. Reinstatement of Dialysis Technician Training Programs. A program whose approval has lapsed and that seeks to reinstate that approval shall:

(1) File an "Application for Dialysis Technician Training Program Approval"; and

(2) Pay the fee established in Section 12 of this administrative regulation.

Section 11. Board Actions on Dialysis Technician Training Programs. (1) A representative of the board may make a site visit to a dialysis technician training program to determine if the program is complying with regulatory standards.

(2) The board shall prepare a report of the site visit, identifying deficiencies for the training program, and shall include recommendations and requirements to be met in order to maintain compliance with standards.

(3) The program administrator shall submit to the board a response to the site visit report.

(4) Based on the report of deficiencies, the training program's response, and any other relevant evidence, the board may grant approval, continue approval, continue approval with stipulations as determined by the board, or propose to deny or withdraw approval of the program.

(5) A dialysis technician training program administrator may request a review of a board decision concerning approval using the following procedure:

(a) 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 dialysis technician training program administrator contests.

(b) The board, or its designee, shall conduct a review. The dialysis technician training program administrator may appear in person to present reasons why the board's decision should be set aside or modified.

(c) The dialysis technician training program administrator shall be notified of the board’s decision.

(6) The board shall deny or withdraw approval of a program after an administrative hearing conducted pursuant to KRS Chapter 13B,

Section 12. Fees. (1) The application fee for the initial credential shall be seventy (70) dollars.

(2) The credential renewal fee shall be seventy (70) dollars.

(3) The credential reinstatement fee shall be $100.

(4) The dialysis technician training program initial approval fee shall be $950.

(5) The dialysis technician training program continued approval fee shall be $800.

(6) The dialysis technician training program reinstatement fee shall be $950.

(7) An additional fee of twenty-five (25) dollars shall be charged for an application for renewal of the credential that is filed after the deadline for filing.

(8) An additional fee of $150 shall be charged for an application for continued dialysis technician training program approval that is filed after the deadline for filing.

(9) A fee of thirty-five (35) dollars shall be charged for issuing a duplicate of the credential.

(10) A check submitted to the board for payment of a fee which is returned by the bank for nonpayment shall be assessed a return check fee of thirty-five (35) dollars.

(11) A fee of ten (10) dollars shall be charged for written verification of a dialysis technician credential. If submitted in list format,

a fee of ten (10) dollars for the first name shall be assessed and a fee of one (1) dollar shall be assessed for each additional name.

(12) A fee of twenty-five (25) dollars shall be charged for a duplicate application form which is issued due to the failure to maintain a current mailing address as required by Section 13 of this administrative regulation.

(13) A fee of thirty five (35) dollars shall be charged for a name change and the issuance of a new credential.

(14) All fees shall be nonrefundable.

Section 13. Miscellaneous Requirements. (1) Any person credentialed by the board as a dialysis technician shall maintain a current mailing address with the board and immediately notify the board in writing of a change of mailing address.

(2) As a condition of holding a credential from the board, a dialysis technician shall be deemed to have consented to service of notices or orders of the board at the mailing address on file with the board. Any notice or order of the board mailed or delivered to the mailing address on file with the board shall constitute valid service of the notice or order.

(3) Any dialysis technician credentialed by the board shall, within ninety (90) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony conviction in this or any other jurisdiction. A conviction shall include pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime. Upon learning of any failure to notify the board under this provision, the board may initiate an action for immediate temporary suspension until the person submits the required notification.

(4) Any dialysis technician credentialed by the board shall immediately notify the board in writing if any professional or business license that is issued to the person by any agency of the commonwealth or any other jurisdiction is surrendered or terminated under threat of disciplinary action or is refused, limited, suspended, or revoked, or if renewal of continuance is denied.

(5) If the board has reasonable cause to believe that any dialysis technician is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a chemical dependency evaluation or a mental or physical examination by a practitioner it designates. Upon failure of the person to submit to a chemical dependency evaluation or a mental or physical examination, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny an application until the person submits to the required examination.

(6) Every dialysis technician shall be deemed to have given consent to submit to a chemical dependency evaluation of a mental or physical examination when so directed in writing by the board. The direction to submit to an evaluation or an examination shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining practitioner's testimony or examination reports on the ground of privileged communication.

(7) The dialysis technician shall bear the cost of any chemical dependency evaluation or mental or physical examination ordered by the board.

Section 14. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) "Application for Dialysis Technician Training Program Approval", Kentucky Board of Nursing, 6/06;

(b) "Application for Dialysis Technician Credential", Kentucky Board of Nursing, 12/09;

(c) "Application for Renewal of Dialysis Technician Credential", Kentucky Board of Nursing, 9/07;

(d) "Checklist for Dialysis Technician Competency Validation", Kentucky Board of Nursing, 9/07;

(e) "Dialysis Technician Training Program Guide", August 14, 2001, Kentucky Board of Nursing; and

(f) "List of Dialysis Technician Training Program Graduates", Kentucky Board of Nursing, 9/07.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 a.m. to 4:30 p.m.

CAROL A. KOMARA, RN, MSN, President

APPROVED BY AGENCY: April 14, 2011

FILED WITH LRC: May 6, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. 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 June 14, 2011, 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 close of business June 30, 2011. 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) 429-3309, fax (502) 564-4251, 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 the requirements for credentialing of Dialysis Technicians (DT) and DT training programs standards.

(b) The necessity of this administrative regulation: The Board is required by statute to promulgate this regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements and standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements and standards.

(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 clarifies that a DT credential will not be issued until the Board receives the criminal background report from the FBI and addresses any convictions.

(b) The necessity of the amendment to this administrative regulation: The regulation was unclear as to when a credential would be issued.

(c) How the amendment conforms to the content of the authorizing statutes: The Board is authorized to set requirements.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying this issue.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Applicants for DT credential, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Applicants for a DT credential will not be fully credentialed until the FBI criminal background check report is received.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with

the regulation.

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

(a) Initially: There is no cost.

(b) On a continuing basis: There is no cost.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ENERGY AND ENVIRONMENT CABINET
Office of the Secretary
Kentucky State Nature Preserves Commission
(Amendment)

400 KAR 2:090. Management, use, and protection of nature preserves.

RELATES TO: KRS 146.410, 146.440

STATUTORY AUTHORITY: KRS 146.465, 146.475, 146.485

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.485(2) authorizes the commission to promulgate administrative regulations for the management, use, and protection of nature preserves. KRS 146.465 authorizes the commission to acquire natural areas for the purpose of dedicating the areas as nature preserves. KRS 146.475 requires that a nature preserve shall be subject to administrative regulations promulgated by the commission.[~~KRS 146.485 requires the commission to establish rules for the management, use, and protection of nature preserves.~~] This administrative regulation establishes the requirements for the[~~sets forth rules to be applied to the~~] management and use of all nature preserves[~~,~~] and to fulfill the purposes of KRS 146.440.

Section 1. Applicability. This administrative regulation[~~These rules~~] shall apply to a nature preserve unless a specific exception is[~~all nature preserves unless exceptions are~~] set forth in the articles of dedication. The reasons for any exception[~~exceptions~~] shall be set forth in the records of the commission.

Section 2. Boundary Markers. (1) Nature preserve[~~preserves~~] boundaries shall be made evident by posting boundary markers in a conspicuous manner[~~, or as approved by the commission~~].

(2) If a boundary fence or barrier is installed[~~Boundary fences and barriers may be installed as approved by the commission; such shall not be~~], it shall not be in a form that will create a detrimental effect on the movement of wildlife or other natural objects.

Section 3. Encroachments[~~Intrusions~~]. There shall not be [~~no~~] encroachments[~~intrusions~~] of structures, easements, rights-of-way, or land uses that[~~which~~] do not conform to this administrative regulation[~~with these rules~~] and with the purposes and definition of a nature preserve as specified in KRS 146.410 to 146.530[~~the Act~~], except as allowed by the articles of dedication.

Section 4. Emergency Situations. (1) An emergency situation[~~Emergency situations~~] shall be reported immediately to the director of the commission[~~by the custodian of the nature preserve~~].

(2) An emergency situation that requires[~~Emergency situations that require~~] immediate action to prevent injury to persons or damage to property[~~, as determined by the director or the commission,~~] shall be handled in a manner that minimizes[~~such a manner as to cause minimal~~] damage to natural conditions.

Section 5. Access Lanes. (1) A vehicular access lane[~~Vehicular access lanes~~] shall be installed and maintained within a nature preserve only where essential for patrol, fire control, management,[~~or other management~~] or research activities and shall be in accordance with the preserve management plan ~~plans approved by the commission~~].

(2) A vehicular access lane[~~Such lanes~~] shall:

(a) Be limited to[~~be closed to all except~~] service vehicles or, in an emergency situation, rescue vehicles; and[~~except in emergency situations~~]

(b) Provide[~~They shall provide~~] a single track not to exceed ten (10) feet in width.

Section 6. Fire Control. (1) If a[~~When~~] boundary firebreak is [~~firebreaks are~~] needed, it[~~they~~] shall be constructed in a buffer area outside the nature preserve if possible.

(a) A firebreak[~~Firebreaks~~] within a nature preserve shall be kept to a minimum and shall be constructed only in accordance with the preserve fire management plan[~~plans approved by the commission~~].

(b) A temporary firebreak[~~Temporary firebreaks,~~] made by mowing, raking, blowing, [~~or~~]wetting, or black lining[~~,~~] may be used in conjunction with a managed burn.

(2)(a)A wildfire[~~All wildfires~~] shall be brought under control as quickly as possible if there is imminent danger to lives or adjacent property.

(b) Fire lines shall be constructed with hand tools rather than heavy equipment, to minimize danger to the preserve.

(c) If there is no danger to lives or adjacent property and the fire can be contained at the preserve boundary, the commission may assess the benefit of allowing a wildfire to burn and shall inform the entity having fire suppression responsibility of its decision to suppress a wildfire or to allow it to burn.

(d) There shall be[~~After a fire within a nature preserve, there shall be~~] no cleanup, fire hazard reduction, or replanting after a fire within a nature preserve, except with the written approval of the commission. Approval shall be based upon health and safety considerations[~~,~~] or the need for habitat restoration.

(3) If undertaken, prescribed[~~Prescribed~~] burning shall [~~may~~] be [~~undertaken~~] conducted in accordance with a prescribed fire plan prepared for each burn unit and in accordance with the preserve management plan[~~as approved by the commission. A written plan shall be prepared for each prescribed burn. Approval may be given~~

~~if the prescribed burning plan is in compliance with this section~~].

(4) During a prescribed burn:

(a) Fire shall be kept away from fences and other structures that may be damaged;

(b) [~~.~~]Burning shall not be done under conditions more hazardous than specified in the prescribed burn plan;

(c) [~~. No~~]Firefighting chemicals that are known to cause damage to or alter a natural condition [~~alteration of natural conditions~~] shall not be used; and

(d) The use of a vehicle or equipment[~~. Use of equipment and vehicles~~] shall:

(1) Be specified in the prescribed burn plan; and

(2) Not[~~. No equipment or vehicles that would~~] cause permanent damage or alteration to the natural features of the nature preserve[~~shall be used~~].

Section 7. Trails. (1) A trail system shall conform to the objectives of the nature preserve. A trail[~~Trails~~] shall:

(a) Be[~~be~~] designed [~~so as~~] to affect only part of the nature preserve and to have minimal impact on natural features; and

(b) Not[~~Trails shall be designed to~~] have a[~~no~~] significant impact on [~~species of~~] animals or plants monitored by the commission or on archaeological resources located within the preserve.

(2) Location and form of a trail[~~any trails~~] other than a natural wildlife path[~~paths~~] shall be approved or denied by the commission.

(3) A trail[~~Trails~~] shall be kept to a single file width sufficient to allow one (1) person to pass another but not wide enough to allow two or more people to walk abreast of one another and shall be adequate to provide for permitted use of a nature preserve and to prevent erosion, trampling of vegetation, and other deterioration[~~, but otherwise shall be kept to a minimum~~].

(4) Trail construction.

(a) Use of paving materials, footbridges, or[~~and~~] elevated walks is permissible if [when] provided for in the trail plan section of the preserve management plan[~~approved by the commission~~], but shall be kept to a minimum in order to limit damage to the preserve.

(b) Synthetic materials, painted or chemically treated wood, or stone or earth materials from outside the nature preserve shall not [~~may~~] be used in trail construction unless specified in the preserve management plan[~~only as specified by the commission~~].

(5)[~~(3) No species of~~]Animals or plants monitored by the commission shall not be removed, damaged, or altered in trail construction or maintenance.

Section 8. Other Structures and Improvements. (1) Necessary signs, information kiosks[~~booths~~], trash receptacles, and minor structures required to house research instruments or hand tools shall be[~~are~~] permitted within a nature preserve[~~preserves~~] if specifically required in the preserve management plan[~~approved by the commission~~] or permitted by[~~by permission of~~] the commission for research activities.

(2) Any other structure[~~All other structures and service facilities~~] shall be located in a service area [areas].

(3) Any sign or structure[~~Signs and structures~~] shall be approved or denied by the commission.

Section 9. Service Areas. Service areas may be established within a nature preserve[~~preserves~~] to provide access and parking, management facilities, and visitor facilities. Provision for a necessary service area[~~areas~~] may be included in the articles of dedication or after a finding by the commission that the designation is warranted and in accordance with the articles of dedication [~~as approved on a case specific basis by the commission~~].

Section 10. Scenic and Landscape Management. (1) Measures [~~No measures~~] shall not be taken to alter natural growth or features for the purpose of enhancing the beauty, neatness, or amenities of a nature preserve, except as established in this section and sections 2, 5, and 7 through 9 of this administrative regulation. [~~There shall be no~~]Cutting of grass, brush, or other vegetation, thinning of trees, removal of dead wood, opening of scenic vistas, or planting shall not be performed[~~,~~] except after a finding by the commission that the action does not irreparably harm the preserve and is in accordance with the preserve management plan[~~as approved by the commission~~].

(2) Installation of guard rails, fences, steps, and other devices necessary for visitor safety shall conform to the preserve management plan[~~may be approved by the commission~~]. Dead trees or branches that constitute a safety hazard to persons on trails or in other authorized use areas may be felled or cleared.

(3) Except as provided in the articles of dedication or as approved by the commission, there shall not be any[~~no~~] removal, introduction or consumptive use of any material, product, or object from a nature preserve [~~and there shall be no introduction of any material, product, or object to a nature preserve~~], except as established in this administrative regulation. The following activities shall be prohibited[~~are include, but are not limited to,~~]:

(a) Grazing by domestic animals;

(b) Farming;

(c) Gathering of firewood;

(d) Gathering of[~~or other~~] plant or mushroom products;

(e) Mining, quarrying or mineral extraction, fossil or rock collection;

(f) Dumping, burying or spreading of garbage, trash or other materials;

(g) Logging; and

(h) Any other human activity that results in damage to or loss of natural features of the preserve.

(4) An artifact shall only[~~As approved by the commission, artifacts may~~] be removed or demolished as follows:

(a) An old interior fence[~~Old interior fences~~] may be removed. Prior to removal, its location shall be mapped,[~~, giving consideration to~~] leaving posts to mark boundaries between former land uses; and

(b) Rubbish may be removed.[~~; and~~]

(5)[~~(c)~~]—Structures[~~having~~] lacking[~~no~~] utilitarian, historical, scientific, or habitat value may be demolished or removed.

Section 11. Water Level Control. Natural water levels shall not be altered. Water levels that[~~which~~] have been altered by humans[~~man~~] may be changed if identified as being essential for the maintenance or [~~and~~] restoration of natural conditions.

Section 12. Erosion Control. Erosion and soil deposition due to past or present disturbance by humans[~~man~~] or natural conditions within or outside of a nature preserve may be controlled as needed for the maintenance or restoration of natural conditions[~~approved by the commission~~].

Section 13. Management of Animals and Plants. (1) Control of plant succession.

(a) Control of plant succession by deliberate manipulation may be undertaken if preservation or restoration of a particular vegetation type or preservation of [~~a species of~~] animals or plants monitored by the commission is designated an objective of the nature preserve by the commission.

(b) If undertaken, plant succession control measures shall[~~may~~] be undertaken [~~in such a manner~~]as outlined in the preserve management plan to meet objectives referenced in Section 13(a) of this administrative regulation [~~as approved by the commission~~].

(c) Vegetation may be managed. If managed,[~~within~~] the following limitations shall apply:

1. Plant species not native to the site or vicinity may be eliminated by cutting, girdling, grubbing, cut stump, or[~~or~~] basal or [~~spot~~] foliar application of specified herbicide;

2. The time of burning during the year, the frequency of burning, and the fractional amount of the area that may be burned each year shall be specified; and

3. Invading native woody species may be eliminated or controlled by cutting, girdling, grubbing, cut stump, or[~~or~~] basal or foliar application of specified herbicide.

(d) The use of herbicides shall[~~may~~] be specified in the management plan for each preserve[~~by the commission~~].

(2) Control of noxious species.

(a) [~~Species of~~] Plants or[~~and~~] animals that[~~which~~] are noxious in fact shall be controlled only if they are [~~determined by the commission to be~~] documented as jeopardizing populations of plants

and animals or the natural integrity of the nature preserve.

(b) Except for removal from a trail, access lane, or firebreak as authorized by this administrative regulation[~~trails, access lanes, and firebreaks as approved by the commission~~], there shall not be any[no] control of a native plant that is[~~native plants which are~~] not noxious but may otherwise appear undesirable.

(c) There shall not be any [~~no~~] control of native predators, rodents, insects, snakes, or other animals [~~except as approved by the commission~~], even though they may appear harmful or undesirable, unless they are documented as jeopardizing populations of native plants or animals, or the natural integrity of the nature preserve.

(d) There shall not be any[~~no~~] use of a pesticide [~~pesticides~~] except as authorized in the preserve management plan [approved by the commission].

(3) Control of exotic species.

(a) Control of exotic plants or[~~and~~] animals may be undertaken. If control of exotic plants is undertaken, it shall be done in accordance with Section 13(1)(c) of this administrative regulation [~~in a manner approved by the commission. There may be no attempt to eradicate exotic species that have become a stable part of the biotic community unless this can be accomplished without disturbance of natural conditions~~].

(b) If control of exotic animals is undertaken it shall be done in accordance with Section 13(2) of this administrative regulation [~~Control of exotic plants may be undertaken by control of plant succession as provided in this administrative regulation or by management practices allowed in this administrative regulation~~].

(4) Any measure [~~measures~~] for population control of any species shall be established[~~to be applied must be provided for~~] in the preserve management plan [~~a written plan approved by the commission. Except as provided in the articles of dedication or approved by the commission, control measures shall be undertaken only by the commission staff or others approved by the commission~~].

(5) Management of [~~species of~~] plants or [~~and~~] animals monitored by the commission and species of management concern.

(a) Habitat manipulations and protective measures in favor of particular species shall be undertaken only as approved by the commission. Approval shall be based upon a finding by the commission that describes the proposed activities and addresses species life history, habitat requirements of the species, characteristics and objectives of the preserve and other relevant information.

(b) Control of plant succession in favor of particular species shall be as provided in this administrative regulation.

(6) Introduction of plants and animals. [~~No~~]Plants, [~~or~~] animals, or their reproductive bodies shall not be brought into a nature preserve or moved from one (1) place to another within a preserve except with approval of the commission. Approval shall be based upon scientific evidence documenting the species' historical occurrence on the preserve. Restoration shall be performed with caution and based on a finding that the actions shall not adversely affect natural conditions on the preserve.

Section 14. Use Tolerance. (1) Human use of a nature preserve shall be allowed only to the[~~such~~] extent and in a[~~such~~] manner that shall[~~as will~~] not impair natural conditions.

(2) The articles of dedication may specify the controls and restrictions to be placed on access and use.

(3) The commission as owner, or the landowner and the commission upon agreement, may further restrict access and use as necessary to protect the nature preserve.

Section 15. Character of Visitor Activity. (1) Visitor activity shall be regulated to prevent disturbance of a nature preserve beyond what it can tolerate without permanent deterioration. A visitor without a permit ~~Visitors without permits~~] for research or educational activities shall be restricted to trails and areas open to off-trail use and may be otherwise restricted in movement. A person [~~Persons~~] wishing to traverse a nature preserve elsewhere than on a trail [~~trails~~] or other area [areas] open to visitation shall obtain permission from the commission.

(2) Public use shall be in accordance with the articles of dedication of the preserve[~~such rules as may be approved by the commission for a nature preserve~~].

(3) Hunting, fishing, and trapping shall not be allowed unless provided for in the articles of dedication for the nature preserve and shall be subject to 400 KAR Chapter 2 [~~restrictions approved by the commission. Additional rules, administrative regulations, or restrictions may be adopted by the commission on a preserve basis to ensure that the preserve is protected adequately from an inappropriate overbalance of game species or impending disease problems of game or nongame species~~]. The commission may approve hunting, fishing, trapping or other control methods if necessary to ensure that the preserve is protected from a documented imbalance of species or impending animal disease.

(4) A visitor[~~Visitors~~] shall not bring an animal[~~pets~~] into a nature preserve, except for a service animal[~~allowed pursuant to permission to hunt in a nature preserve~~].

(5) A visitor carrying a deadly weapon on a nature preserve shall not discharge the weapon unless it is necessary for either self-defense or hunting if the visitor has previously obtained permission from the commission to hunt on the nature preserve or hunting is provided for in the articles of dedication [~~Deadly weapons shall not be carried by visitors to a nature preserve except as allowed pursuant to permission to hunt in a nature preserve~~].

(6) A preserve that is open to visitors shall be open sunrise to sunset.

(7) Trails shall be open to foot traffic only. Travel on horse, bicycle, or motorized vehicle shall be prohibited at all times.

(8) Rock climbing and rappelling shall be prohibited at all times.

(9) Possessing or using non-prescription drugs or alcohol shall be prohibited at all times.

(10) Camping, picnicking, building fires, using audio equipment (except if part of research approved by the commission) shall be prohibited at all times.

(11) Collecting plants, fungi, animals, minerals, rocks, wood or artifacts shall be prohibited at all times except for approved scientific studies in accordance with Section 19 of this administrative regulation.

Section 16. Access Control. (1) Ingress and egress shall be allowed only at[~~such~~] locations and under[~~such~~] conditions as may be specified by the commission in the preserve management plan.

(2) The owner, custodian, and commission have the authority to further limit access as may be necessary for protection and proper management of the nature preserve.

Section 17. Orientation and Guidance of Visitors. Orientation and guidance of visitors shall be in accordance with the articles of dedication, and as approved by the commission. Interpretive signs, structures or labels shall be of uniform appearance [~~approved by the commission~~].

Section 18. Permission for Research or Educational Activities. (1) A person wishing to engage in research or educational activities on a nature preserve[~~not otherwise permitted by these rules or by the articles of dedication for the nature preserve~~] shall secure prior permission of the commission. If the activities are to be carried on by a group, permission may be issued to the group leader who shall be responsible for the actions of the group.

(2) Permission shall be[~~is~~] required for educational use of a preserve only if activities [~~are to~~] include collecting or activities other than walking and observation[~~,~~] or if the preserve is not open to the public.

(3)(a) The application for permission shall be on a form prescribed by the commission and
[~~it~~]shall include the:

1. Name of the applicant;
2. Mailing address of the applicant;
3. Occupation of the applicant;
4. Professional qualifications of the applicant;
5. General field of interest of the applicant; and
6. Description of the applicant's proposed activities, including the:

a. Objectives, methods and procedures to be followed:
b. Records to be kept;

c. Location and duration of the project areas to be visited;
d. Frequency and length of visits; and
e. Detailed description of disturbances to be made to the preserve.

(b)[~~name, address, position, professional qualifications, and general field of interest of the applicant and a description of the proposed activities including the objective, methods and procedures to be followed, records to be kept, duration of the project areas to be visited, frequency and length of visits, and detailed description of disturbances to be made. If collecting is to be done it shall be in accordance with this administrative regulation~~] Information shall be provided on the:
1. Species or objects to be taken;
2. Number of specimens;
3. Method of taking; and
4. Disposition of specimens [~~species or objects to be taken, number of specimens, method of taking, and disposition of specimens~~].

(c) The commission shall provide permission application forms to persons requesting them.

(4)(a) The permission may contain specific provisions and restrictions.

(b) Permission may be modified, suspended, or revoked by the commission for violations of the conditions of permission, this section, or based upon a determination of the commission that the activity jeopardizes the nature preserve.

(c) Each holder of permission shall submit to the commission an annual report or progress report [~~in such form as may be prescribed by the commission~~].

(d) Permission for an activity of no more than the calendar year expires on December 31 of that year. Permission for an activity of longer than one (1) year may be extended annually upon submission of an annual report and request for an extension.

Section 19. Collecting on Nature Preserves. (1) A person[~~Persons~~] wishing to collect a scientific specimen [~~specimens~~] for deposition in a permanent institutional collection available to the public or for purposes of an approved research project shall [~~may~~] do so pursuant to terms of permission as specified in this administrative regulation.

(2) Permission may restrict the collecting of certain species or specimens.[~~There shall be no collecting of~~] Material for classroom [~~or~~] laboratory observation or[~~and~~] study shall not be collected [~~or mass collecting by class groups~~]. Exceptions may be provided in the articles of dedication of the nature preserve, or as set forth in the preserve management plan [~~by the commission~~].

Section 20. Record. (1) A record shall be kept for each nature preserve.

(2) One (1) copy of the record required by subsection (1) of this section shall be held by the commission at its Frankfort office.

(3) The record shall include annual reports of the custodian and all other pertinent documentary material, studies, reports, and descriptions of significant events.

(4) Responsibility for assembling the record shall be with the commission director, in conjunction with the custodian of the nature preserve.

Section 21. Management Plan. Each nature preserve shall be managed in strict accordance with the most recent approved management plan that sets forth the allowable activities to take place on the preserve as related to:
(1) Natural community and rare species protection;
(2) Resource restoration and enhancement;
(3) Archeological and historical resource protection;
(4) Staffing;
(5) Security;
(6) Safety;
(7) Public access and interpretation;
(8) Maintenance of the preserve;
(9) Coordination of management activities with adjacent landowners and other federal and state resource protection agencies; and
(10) Research and education.

LEONARD K. PETERS, Secretary
APPROVED BY AGENCY: May 10, 2011
FILED WITH LRC: May 11, 2011 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2011 at 10:30 a.m. at the Kentucky State Nature Preserves Commission, 801 Schenkel Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 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 June 30, 2011. 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: Donald S. Dott, Executive Director, Kentucky State Nature Preserves Commission, 801 Schenkel Lane, Frankfort, Kentucky 40601, phone (502) 573-2886, fax (502) 573-2335.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Donald S. Dott, Jr.

(1) Provide a brief summary of:

(a)What this administrative regulation does: This administrative regulation sets forth rules and guidelines for managing, accessing and protecting nature preserves.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure the greatest degree of protection possible to lands dedicated as nature preserves, while allowing public access, enjoyment and research activities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 146.485(2) authorizes the Commission to make and publish policies, rules and regulations for the selection, acquisition, management, protection and use of nature preserves.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the protection of nature preserves as authorized by KRS 146.485(2) by restricting certain activities on nature preserves in an effort to enhance protection.

(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 clarifies the distinction between what actions are and are not permissible on state nature preserves.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to ensure that the citizens of the Commonwealth are notified of what conduct is permissible on nature preserves.

(c) How the amendment conforms to the content of the authorizing statutes: this amendment assists in the protection of nature preserves, as authorized by KRS 146.485(2), by clarifying activity restrictions for visitors.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in informing visitors of the limitations of their conduct on nature preserves.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will not affect an identifiable number of individuals, businesses, organizations, or state and local governments since nature preserves are open to the public at large.

(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, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Not applicable, for the reasons state in

the response to question (3).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost involved in complying with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Not applicable, for the reasons stated in the response to question (3).

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

(a) Initially: No cost is associated with implementing this regulation.

(b) On a continuing basis: No cost is associated with implementing this regulation.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: No funding is required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There will be no fee or funding to implement this amended regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not applied because every person who enters a nature preserve is treated the same and bound to the same restrictions on conduct.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? There are no particularly identifiable parts or divisions of state or local government because every individual (whether a citizen of the Commonwealth or another state) who enters a nature preserve will be required to adhere to the requirements of the regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 146.485(2).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No cost is involved.

(d) How much will it cost to administer this program for subsequent years? No cost is involved.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other explanation: Not applicable.

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Water
(Amendment)

401 KAR 8:020. Public and semipublic water systems; general provisions.

RELATES TO: KRS 211.350-211.392, 223.160-223.220, 224.10-100, 224.10-110, 224.16-050, 369, 40 C.F.R. 141, 142.14, 142.15, 142.16, 142.20, 142.21, 142.40-142.65[~~, EO 2009-538~~]

STATUTORY AUTHORITY: KRS 223.200, 224.10-100(28), 224.10-110(2), 40 C.F.R. 141.3, 141.31, 141.75, 142.14, 142.15, 142.20. 142.21, 142.40-142.65, 42 U.S.C. 300f-300j-26[~~, EO 2009-538~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) and 224.10-110(2) authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use. [~~EO 2009-538, effective June 12, 2009, establishes the new Energy and Environment Cabinet.~~] This administrative regulation establishes the general provisions for regulating public and semipublic water supplies.

Section 1. A public or semipublic water system shall be subject to the requirements of 401 KAR Chapter 8, except those exempted in 40 C.F.R. 141.3.

Section 2. (1) Public and semipublic water systems. A person shall not operate or commence operation of a public or semipublic water system except in compliance with the provisions of 401 KAR Chapter 8 and 40 C.F.R. 141. A water supply system constructed prior to November 11, 1990 may be continued in use, if the operation, maintenance, bacteriological, chemical, physical, and radiological standards comply with 401 KAR Chapter 8, or the system obtains a variance or exemption from those standards in accordance with 40 C.F.R. 141.

(2)(a) A cross-connection shall be prohibited.

(b) The use of automatic devices, such as a reduced pressure zone back flow preventer and a vacuum breaker, may be approved to protect public health, in lieu of air gap separation.

(c) A combination of air gap separation and an automatic device shall be required if determined by the cabinet to be necessary due to the degree of hazard to public health.

(d) Every public water system shall determine if or where a cross-connection exists and shall immediately eliminate it.

(3) A bypass shall not be created or maintained without the prior written approval of the cabinet stating the approved circumstances for establishment of a bypass, its design, and the exact conditions for its use.

(4) An auxiliary intake shall not be used in direct connection with a public or semipublic water system except with prior written approval from the cabinet stating the emergency condition that necessitates the intake.

(5) The plumbing system serving the purification plant and auxiliary facilities shall discharge to a sewer system if available.

(a) If a sewer is not available, the connection shall be made to a sewage disposal facility approved pursuant to KRS Chapter 211.350 through 211.392 or 224.16-050.

(b) There shall not be connections between the sewer system and a filter backwash, filter-to-waste drain, or clearwell overflow line, unless an air gap is provided between the drain and overflow line and the sanitary storm sewer or natural drainage system, so as to preclude the possibility of back-up of sewage or waste into the drain or overflow line.

(6) The owner or operator of a public water system shall operate and maintain the facilities and systems of treatment, intake, and distribution to comply with the provisions of 401 KAR Chapter 8. Operation and maintenance includes effective performance, preventive maintenance, operator staffing and training pursuant to 401 KAR 8:030, 11:040, and 11:050 establishing representative sample points that comply with the requirements of 401 KAR Chapter 8, and adequate process controls for testing, including quality assurance procedures.

(7) Reports to the cabinet.

(a) The supplier of water shall provide a complete monthly operating report to the cabinet, which shall be received at the Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky 40601 not later than ten (10) days after the end of the month of which the report is filed.

1. A completed report shall include:

a. Volume of water treated;

b. Type and amount of chemicals added;

c. Test results appropriate to be reported by the plant; and

d. The dated original signature, or equivalent, pursuant to KRS Chapter 369, of the owner or authorized agent.

2. A supplier of water shall submit the reports required by 40 C.F.R. 141.75(b) to the cabinet not later than ten (10) days after the end of each month the public water system serves water to the public.

3. A public water system shall report to the cabinet in accordance with 40 C.F.R. 141.31.

(b) Reports of failure to comply. A public water system shall report to the cabinet within forty-eight (48) hours, by phone or in writing, the failure to comply with a provision of 401 KAR Chapter 8, including the failure to comply with monitoring requirements.

(c) Emergency reports.

1. If a public water system experiences a line break or loss of pressure as established in 401 KAR 8:150, Section 4(2)(e), loss of disinfection, or other event that may result in contamination of the water, the public water system shall immediately report to the cabinet by calling the Division of Water in Frankfort at (502) 564-3410 or the appropriate regional field office of the Division of Water.

2. If a report required by this paragraph is made during other than normal business hours, it shall be made through the twenty-four (24) hour environmental emergency telephone number, (800) 928-2380.

(8) Records to be maintained. An owner or operator of a public water system shall keep the records established in 40 C.F.R. 141.33 on the premises
or readily accessible to cabinet staff inspecting the system.

(9) Boil water and consumer advisories.

(a) Boil water advisories.

1. A public water system or semipublic water system shall issue boil water advisories if the system believes an advisory is warranted.

2. The cabinet may direct that a boil water advisory be issued upon:

a. The reception of confirmed positive bacteriological results including E. coli or fecal coliform in at least one (1) sample; or

b. Other circumstances that warrant an advisory for the protection of public health.

3. The cabinet may, if circumstances warrant for the protection of public health, issue a boil water advisory directly, rather than rely on a public or semipublic water system to issue the advisory.

4. Boil water advisories shall remain in effect until the cabinet approves the lifting of the advisory based on bacteriological results showing coliform bacteria are not present in the water.

(b) Consumer advisory.

1. The cabinet may issue a consumer advisory if:

a. Conditions within a public water system or semipublic water system indicate a possible adverse health effect from consumption of the water distributed by the system; or

b. Other information of interest to the consumer exists.

2. The advisory shall notify affected persons of a required or recommended action.

(c) A public or semipublic water system shall:

1. Immediately notify the local health department that serves the area affected if a boil water advisory or consumer advisory is issued.

a. The notification may be made by telephone or fax machine for an occurrence during normal business hours.

b. For an occurrence after normal business hours, the public or semipublic water system shall notify the affected local health department in a manner agreed upon by the system and affected health department; or

2. Develop a protocol with a local health department that describes when and how the system shall notify the affected health department if the system issues a boil water advisory or consumer advisory. The protocol shall address:

a. For which types of advisories the system shall notify the affected health department;

b. What procedures shall be used to notify and under what circumstances;

c. How soon after the occurrence the notification shall be made; and

d. To whom the notification shall be made, during and after business hours.

(10) How to issue advisory.

(a) A boil water advisory or consumer advisory shall be issued through newspapers, radio, television, or other media having an immediate public impact.

(b) As a health and safety measure, the water system shall repeat the notification during the period of imminent danger at intervals that maintain public awareness.

(c)1. The advisory shall be readily understandable and shall include instructions for the public, as well as an explanation of the steps being taken to correct the problem.

2. Boiling instructions shall caution to boil water to be used for consumption by boiling the water for at least three (3) minutes at a rolling boil.

(11) Maps.

(a) A public or semipublic water system shall have on the premises, or readily accessible to cabinet staff inspecting the system, an up-to-date map of the distribution system. The map shall, at a minimum, show:

1. Line size;
2. Cutoff valves;
3. Fire hydrants;
4. Flush hydrants;
5. Tanks;
6. Booster pumps;
7. Chlorination stations;
8. Connection to emergency or alternative sources;
9. Wholesale customer master meters; and
10. Type of piping material in the distribution system and its location.

(b)1. If a public water system is not able to comply with the requirements of paragraph(a) of this subsection the system may petition the cabinet to modify this requirement.

2. The petition for modification shall state specifically what portion of the requirements of paragraph (a) of this subsection is not practical and why.

(12) Operation and maintenance manual.

(a) Each public water system shall develop and keep on the premises, for operators and employees of the system, an operation and maintenance manual that includes:

1. A detailed design of the plant;
2. Daily operating procedures;
3. A schedule of testing requirements designating who is responsible for the tests; and
4. Safety procedures for operation of the facility, including storage and inventory requirements for materials and supplies used by the facility.

(b) The operation and maintenance manual shall be updated as necessary, but not less than annually, and shall be available for inspection by the cabinet.

(c) Public water systems serving fewer than 100 people or thirty (30) service connections may request that the cabinet waive the requirements of paragraphs (a) and (b) of this subsection. The request shall be in writing and any waiver granted by the cabinet shall be in writing and be retained by the public water system for examination by cabinet personnel.

(13) Flushing recommended.

(a) To protect public health, a distribution system may be thoroughly flushed at least twice a year, usually in the spring and fall. The purpose of systematic flushing is to reduce turbidity created from the scouring of accumulated sediment within the water lines.

1. Flushing shall start at the hydrants nearest the source of supply and proceed in an outward direction to the end of each main.

2. Flushing shall continue at each hydrant until all traces of turbidity and color are gone.

3. Hydrants shall be opened and shut slowly to prevent damage from water hammer.

(b) In addition to the regularly scheduled flushing, the following conditions shall indicate a need to flush the entire system:

1. Turbidity within the distribution system greater than five (5) or one (1) nephelometric turbidity units, or NTU, as applicable to the system;

2. An inability to maintain an adequate residual of a disinfection agent in any part of the system; or

3. A heterotrophic plate count, or HPC, in excess of 500.

(c) Other indicators that flushing may be necessary shall be taste and odor complaints, color of water, contaminated water samples, or line repairs.

(14) A person shall not introduce into the water supply system a substance that may have a deleterious physiological effect, or for which physiological effects may not be known.

(15) Certified lab analysis required. For the purpose of determining compliance with the sampling requirements of 401 KAR Chapter 8, samples shall be analyzed by a laboratory certified by the cabinet as prescribed in 401 KAR 8:040, except that measurements for turbidity, disinfectant residuals, and other parameters specified by 40 C.F.R. 141.28 and 141.131 may be performed by a certified operator or an individual under the supervision of a certified operator.

(16) Right of entry. The cabinet may enter an establishment, facility, or other property of public and semipublic water supplies in order to determine whether the supplies have acted or are acting in compliance with applicable laws or regulations that the cabinet has the authority to enforce.

(a) Entry may include collection of water samples for laboratory analyses and inspection of records, files, papers, processes, controls and facilities required to be kept, installed, or used under the provisions of 401 KAR Chapter 8.

(b) The cabinet or its authorized agent may cause to be tested a feature of a public water system, including its raw water source, to determine compliance with applicable legal requirements.

(17) Recommended practices for water supply reservoirs to be used for drinking water. The following practices may be employed by water systems that have a lake primarily used as a source of raw drinking water:

(a) Prohibition of swimming, water skiing, and other contact sports;

(b) Prohibition of large motor-driven craft or any craft with toilets;

(c) A requirement that an area at least 100 feet wide from the upper pool elevation be kept clear of all sources of potential contamination such as septic tanks, drain fields, livestock, and barns;

(d) Prohibition of effluent from sewage treatment plants being discharged into the lake;

(e) Picnicking may be permitted around the lake if plans for the development of a picnic area meet regulatory requirements of the cabinet; and

(f) Implementation of a nonpoint source pollution control plan.

(18) Water treatment chemicals and system components. Chemical additives and protective materials, such as paints and linings, may be used by a water system if they meet the requirements established in the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers' Recommended Standards for Water Works.

(19) Disposal of chlorinated water. Chlorinated water resulting from disinfection of treatment facilities and new, repaired, or extended distribution systems shall be disposed in a manner that shall not violate 401 KAR 10:031.

(20) Water loading stations. A public water system that provides water loading stations for the purpose of providing water to water hauling trucks or other bulk water devices shall construct the stations to conform to the standards in the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers' Recommended Standards for Water Works.

Section 3. The cabinet shall maintain records and submit reports as established in 40 C.F.R. 142.14, [~~and~~] 142.15, and 142.16(f).

Section 4. A public water system may receive a variance or exemption from some provisions of 401 KAR Chapter 8 only in accordance with 40 C.F.R. 141.4.

Section 5. A public water system may use noncentralized treatment devices only in accordance with 40 C.F.R. 141.100 or bottled water only in accordance with 40 C.F.R. 141, Sections 141.101.

Section 6. Incorporation by Reference. (1) "Recommended Standards for Water Works, 2003," A Report of the Committee of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available the division's Web site at http://water.ky.gov[~~www.water.ky.gov/dw~~].

LEONARD K. PETERS, Secretary

APPROVED BY AGENCY: May 9, 2011

FILED WITH LRC: May 11, 201 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 23, 2011 at 5 p.m. at 300 Fair Oaks Lane, Conference Room 301D, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 16, 2011, 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 June 30, 2011. 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: Abigail Powell, Regulations Coordinator, Division of Water, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-0111.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sandra Gruzesky, Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides general provisions for the regulation of public and semipublic water systems.

(b) The necessity of this administrative regulation: This administrative regulation provides general guidelines for public water systems to follow to protect public health, including reporting and recordkeeping requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-110 authorizes the cabinet to regulate public and semipublic water systems.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: General provisions provide public water systems with general guidelines for treating water to protect public health.

(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 adds a citation to 40 C.F.R. 142.16(f), which is a federal requirement for recordkeeping. The amendment also updates the Division of Water web address.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to obtain primacy for the drinking water program in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments will cite the appropriate federal requirements.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to include the appropriate recordkeeping requirement will allow Kentucky to obtain primacy.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation applies to 465 public and 50 semipublic water systems.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administra-

tive regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The substantive requirements of the regulated entities are unchanged in this regulation. The amendments to this administrative regulation include an omitted federal citation for recordkeeping and update the Division of Water's web address..

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation does not change the cost of complying with the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Water systems will benefit from working with the cabinet to meet these requirements, rather than the federal Environmental Protection Agency.

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

(a) Initially: There will be no additional cost to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? The source of funding for the drinking water program is federal funds to administer the requirements of the Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees will not be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does not establish fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Yes. This regulation is tiered by distinguishing between public and semipublic water systems.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation applies to public and semipublic water systems. Public water systems are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(28), and 224.10-110, are state statutes under which portions of this regulation are promulgated. 40 C.F.R. 141 and 142 are promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act and portions of these regulations are cited where federal standards are to be maintained.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue for local governments for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue for local governments in subsequent years.

(c) How much will it cost to administer this program for the first year? The amendments to this regulation are a change in format; they will not impose any additional cost for the first year.

(d) How much will it cost to administer this program for subsequent years? The amendments to this regulation are a change in format; they will not impose any additional cost in subsequent years.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. Chapter 6A, Subchapter XII, the Safe Drinking Water Act, 40 C.F.R. 141 and 142

2. State compliance standards. KRS 223.220, 224.10-100(28), 224.10-110

3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. 141 and 142 establish National Primary Drinking Water Regulations and implementation standards for those regulations. This regulation cites variance, exemption, conditions for use of non-centralized treatment devices and bottled water, and certain reporting and recordkeeping requirements pursuant to the federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate?
Yes. Portions of this regulation are promulgated under KRS 224.10-110, 224.10-100, and 223.160. These requirements are for general operation and maintenance, boil water notices and advisories, procedures for repairing line breaks, and other general requirements for a public water system that have no federal counterpart.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The requirements of this regulation that have been promulgated under state law have been in place for some time; most were in place prior to the passage of the Safe Drinking Water Act. Kentucky's heavy use of surface water sources and karstic groundwater geology have led to long standing practices and requirements designed to help protect public health.

JUSTICE AND PUBLIC SAFETY CABINET
Office of the Secretary
(Amendment)

500 KAR 8:010. Certification of Breath Alcohol Analysis Instrument operators.

RELATES TO: KRS 15A.070, 189A.103(3), (6)
STATUTORY AUTHORITY: KRS 15A.160
NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes the certification of breath analysis operators as required by KRS 189A.103(3) and (6).

Section 1. Training Program. (1) To become certified to operate a breath alcohol analysis instrument, the person shall successfully complete the Basic Breath Test Operator Certification training program of the Department of Criminal Justice Training.

(2) Successful completion shall mean receiving a passing score on a standardized written examination as provided by the department and the satisfactory completion of a standardized practical proficiency examination administered by a certified instructor.

(3) The examinations shall be included in a minimum of forty (40) hours of instruction which shall also include the demonstration of physiological effects of alcohol in the human body, general instrumentation theory, and operation of approved instruments which measure alcohol concentration.

Section 2. Certification Period. (1) Operator certification shall be valid for a period of two (2) years from the date of issuance.

(2) Certification shall expire[~~be terminated~~] if it is not renewed within a two (2) year period[~~or the operator ceases to be employed by a criminal justice agency.~~]

(3) An operator whose certification has expired[~~been revoked pursuant to this section~~] shall be eligible for recertification pursuant to Section 4 of this administrative regulation for a period of six (6)

months following expiration.[~~revocation.~~]

(4) An operator whose certification expires during his or her service on active duty with the Kentucky National Guard or the United States Armed Forces shall be eligible for recertification pursuant to Section 3 of this administrative regulation for a period of six (6) months following his or her return to employment as a peace officer.

Section 3.[~~The employer of a certified operator shall notify the Department of Criminal Justice Training in writing within two (2) weeks of the change in the event of change of employment to a different criminal justice agency or termination of employment with a criminal justice agency.~~

~~Section 4.~~] Recertification. (1) To obtain recertification under Section 2(3) or 2(4) of this administrative regulation, a certified operator shall review standards and procedures for a minimum of four (4) hours of recertification instruction by the Department of Criminal Justice Training.

(2) An operator whose certification expires and fails to obtain recertification under Section 2(3) or 2(4) of this administrative regulation shall repeat the forty (40) hour Breath Test Operator Certification training program.

Section 4.[~~5.~~] Revocation of Certification. (1) The following are grounds for revocation of certification to operate a breath analysis instrument:

(a) Misuse of the instrument by the operator in violation of law;

(b) Refusal or failure to perform procedures in an acceptable manner; and

(c) Failure to testify at any judicial proceeding under KRS Chapter 189A without just cause. [~~cause; and~~

~~(d) Dismissal of an operator from his employment with a criminal justice agency.~~]

(2) Any revocation of an operator's Breath Test Operator Certification shall be[~~Revocation will be held only following a hearing~~] conducted by the Commissioner of the Department of Criminal Justice Training, or his designee, following written notice to the certified operator of the basis for revocation and an administrative hearing conducted pursuant to KRS Chapter 13B.

Section 5.[~~6.~~] A person who has received training from the Department of Criminal Justice Training, the Department of State Police, or the Lexington-Fayette Urban County Government Division of Police in breath analysis instrument operation before January 1, 1991, shall be exempt from the requirements of Section 1 of this administrative regulation. Each person who has not received this training more recently than January 1, 1989, shall comply with Section 3[~~4~~] of this administrative regulation.

J. MICHAEL BROWN, Secretary

APPROVED BY AGNECY: May 10, 2011

FILED WITH LRC: May 13, 2011 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 9 a.m. in Room 211, Funderburk Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2011, 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 June 30, 2011. 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: Stephen D. Lynn, Assistant General Counsel, Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102, phone (859) 622-3073, fax (859) 622-5027.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen D. Lynn

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes the training requirements for certification as a breath alcohol analysis operator.

(b) The necessity of this administrative regulation: The regulation is necessary so that the Secretary of the Justice and Public Safety Cabinet may fulfill his responsibility, as established in KRS 189A.103(3)(b), of issuing to peace officers their certification to properly operate a breath alcohol analysis instrument.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 15A.160 authorizes the Secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations for the administration of all laws and functions which are vested in the cabinet. KRS 189A.103(3)(b) directs the Secretary to issue certification for operation of breath alcohol analysis instruments to Kentucky peace officers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets clear, reasonable and consistent procedures for training, certification, and re-certification of peace officers to operate breath alcohol analysis instruments.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current administrative regulation, which was promulgated in 1991, terminates the breath test certification of a peace officer if he or she leaves employment with a criminal justice agency, even if he or she is being hired by another agency, and mandates re-certification with six months. The amendment to this administrative will provide that certification is good for two years (the current period) and that it will not expire or terminate if an officer leaves employment. Further, the amendment addresses those peace officers whose certification expires when they are serving on active duty with the United States Armed Forces and are unable to take the recertification class within six months.

(b) The necessity of the amendment to this administrative regulation: These amendments are needed to avoid the unnecessary repetition of the full forty hour Basic Breath Test Certification course by officers that retain the knowledge and skills to operate a breath alcohol analysis instrument, and reduce training costs for the Department of Criminal Justice Training and the agency which employs the officer.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 15A160 and 189A.103 authorizes the Secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations to accomplish the purposes of the cabinet.

(d) How the amendment will assist in the effective administration of the statutes: All peace officers that operate a breath alcohol analysis instrument are required by statute to be certified. This administrative regulation establishes the training requirements for certification.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All law enforcement agencies in the Commonwealth that employ peace officers that routinely operated breath alcohol analysis instruments, which is approximately 400 agencies, including most state, county and local law enforcement agencies, the Kentucky State Police, the Lexington-Fayette Urban County Government Division of Police, and the Louisville Metro Police Departments. Additionally, approximately 8,000 law enforcement officers in the Commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The agencies and their officers should have very few actions to take to comply. The primary change is being made to the status of an officer who leaves employment with a criminal justice agency and an officer who returns from active

duty in the military.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no costs for agencies and officer to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The primary benefit is that if an officer is hired by an agency and has previously been certified to operate a breath alcohol analysis instrument within the past two years, that officer will not have to take the four hour recertification course or repeat the full forty hour course.

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

(a) Initially: There should be no cost to implement this administrative regulation beyond the current costs of the certifications. If anything, there should be a decrease in costs as officers will not have to needlessly take or repeat a training course for which they are fully knowledgeable.

(b) On a continuing basis: None. See answer to Section (5)(a) above.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

(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 is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment of this administrative regulation does not establish any new fees or increase any fees, directly or indirectly.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect all divisions of state or local government that employ peace officers who are certified to operate a breath alcohol analysis instrument, including city and county police departments, and county sheriffs' offices.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 189A.103, 15A.160.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Nothing.

(d) How much will it cost to administer this program for subsequent years? Nothing.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.
Expenditures (+/-): None.
Other Explanation: None.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 2:020. Definitions for 501 KAR Chapter 2.

RELATES TO: KRS 532.060, 532.100
STATUTORY AUTHORITY: KRS 196.035, 197.020, 532.100
NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(4) requires the Department of Corrections to house qualifying Class D and Class C felons in county jails and promulgate administrative regulations establishing required programs for the jails where they are housed. This administrative regulation establishes the definitions used in 501 KAR Chapter 2, which implements the required housing program.

Section 1. Definitions. (1) "Assessment and Classification Center" or "AC Center" means the units at Roederer Correctional Complex and Kentucky Correctional Institution for Women that initially receive all convicted felons, except for those sentenced to the death penalty, who are committed to [~~into~~] the Kentucky Department of Corrections [~~Adult Correctional System~~].

(2) "Class C felon" means an inmate convicted of a Class C felony that meets the requirements established in KRS 532.100(4)(b).

(3) "Class D felon" means an inmate convicted of a Class D felony that meets the requirements established in KRS 532.100(4)(a) or (b).

(4) "Classification branch manager" means the Department of Corrections employee who approves inmates for placement in jails and in halfway house facilities throughout the state and oversees the prerelease programs.

(5) "Close custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(6) "Community custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(7) "Controlled intake inmate" means a convicted felon who is entering into the Kentucky Adult Correctional System.

(8) "Department" is defined in KRS 441.005(5).

(9)[~~(8)~~] "Educational good time" means a credit on an inmate's sentence for an educational accomplishment pursuant to KRS 197.045(1).

(10)[~~(9)~~] "Escape" is defined in KRS 520.010(5).

(11)[~~(10)~~] "Jail" is defined in KRS 441.005(1).

(12) "Jail personnel" is defined in KRS 441.005(6).

(13)[~~(11)~~] "KOMS" means Kentucky Offender Management System.

(14)[~~(12)~~] "Maximum custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(15)[~~(13)~~] "Medium custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(16)[~~(14)~~] "Meritorious good time" means a credit on an inmate's sentence for good conduct pursuant to KRS 197.045(3).

(17)[~~(15)~~] "Minimum custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(18)[~~(16)~~] "Restricted custody" means that the inmate meets the requirements for that subcategory of the minimum custody classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(19)[~~(17)~~] "Statutory good time" means a credit on an inmate's sentence pursuant to KRS 197.045(1).

(20)[~~(18)~~] "Waiver" means that the department has granted the county an exemption from housing any Class D or Class C felons in its county jail pursuant to KRS 532.100.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes definitions for 501 KAR Chapter 2, governing the housing of Class C and D felons in county jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 532.100.

(c) How this administrative regulation conforms to the content of the authorizing statues: Establishes definitions for the operation of the Class C and D felon program required by KRS 532.100.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes definitions for the operation of the Class C and D felon program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It adds definitions for "Department" and "Jail Personnel", and renumbers.

(b) The necessity of the amendment to this administrative regulation: To standardize words used for the Class C and D program in local jails.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jail Standard Review Advisory Commission recommendations and establishes definitions for the housing of Class C and D inmates in jails.

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear definitions for the administration of the Class C and D program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 4,878 Class C and D felons in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will all receive better understanding of the program and its requirements by having updated and clarified definitions.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. Definitions apply equally to all involved in the housing program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.100(1), 441.055, 532.100

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? No costs are generated by this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are generated by this administrative regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation: See 4(a)-(d) for explanation.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 2:040. Waivers.

RELATES TO: KRS 532.100

STATUTORY AUTHORITY: KRS 196.035, 197.020(1), 532.100(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(4) requires the Department of Corrections to grant a waiver to any county that chooses not to house Class D and Class C felons in its county jail. This administrative regulation establishes the process for a county to request a waiver from the department and the effect of the waiver on that county's Class D and Class C felons.

Section 1. Request for Waivers; Effect of Waivers. (1) The waiver request shall be made in writing and signed by the county judge executive and jailer.

(2) Once granted, the wavier shall remain in effect until terminated. To request termination of the waiver, the county shall provide the department a request [~~notifies the department~~] in writing, and signed by the county judge executive and jailer, to terminate the waiver. The department shall provide notice to the county when the waiver is terminated.

Section 2. Controlled Intake. (1) For a Class D or Class C felon in a county with a waiver, the department:

(a) May transfer the felon directly to a county jail which houses Class D or Class C felons, if space is available; or (b) Shall consider the felon, if not transferred directly, a controlled intake inmate and process the inmate through the AC Center pursuant to CPP 17.3, incorporated by reference in 501 KAR 6:020.

(2) A computer listing shall be maintained at the AC Center of all Class D and Class C felons convicted in counties granted waivers.

(3) For a Class D or Class C felon considered a controlled intake inmate, the Classification Branch Manager shall transfer the felon to a county jail if a jail bed becomes available.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation describes the waiver process for county jails that choose not to house Class C and D felons.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 532.100.

(c) How this administrative regulation conforms to the content of the authorizing statues: It describes the waiver process required by KRS 532.100(4)(a) for county jails that choose not to house Class C and D felons.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes the waiver process for county jails that choose not to house Class C and D felons.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
It requires the waiver request to be in writing and requires that the department to provide notice to the county when the waiver is terminated.

(b) The necessity of the amendment to this administrative regulation: To clarify the procedures regarding waivers.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment clarifies the procedures regarding waivers, which are required by KRS 532.100.

(d) How the amendment will assist in the effective administration of the statutes: It will require the waiver be in writing and notice given to the county when the waiver is terminated.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 4,878 Class C and D felons in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Department of Corrections will have to provide written notice of the termination of a waiver.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The waiver procedures are clarified for all.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The waiver process applies equally to all involved in the housing program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.100(1), 441.055, 532.100.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? The waiver process creates minimal additional costs if a county requests to obtain or terminate a waiver in preparing the papers and mailing.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: See (4)(a)-(d) for explanation.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 2:050. Transfer requests.

RELATES TO: KRS 532.100

STATUTORY AUTHORITY: KRS 196.035, 197.020(1), 532.100(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(5) establishes the circumstances in which a county jailer may request the Department of Corrections to transfer a Class D or Class C felon housed in the county jail to a state corrections institution. This administrative regulation establishes the process for the jailer to request a transfer.

Section 1. Transfer Requests. (1) To request a transfer of a Class D or Class C felon housed in a county jail to a state corrections institution pursuant to KRS 532.100(5), the county jailer shall:

(a) Request the transfer on an "Inmate Priority Movement Form"; and

(b) Submit the form to the Classification Branch [~~Division of Local Facilities~~], which shall review the form [~~and forward it with a recommendation to the commissioner~~].

(2) The commissioner or his designee shall approve or deny the request.

(a) If approved, [~~a copy of the form shall be forwarded to~~] the Classification Branch Manager shall arrange [~~so that~~] an appropriate transfer [~~can be arranged~~].

(b) If denied, a copy of the form shall be returned to the jailer who may appeal the denial as provided by KRS 532.100(5). Section 2. Incorporation by Reference. (1) "Inmate Priority Movement Form." 6/07, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, Division of Local Facilities, 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the process for a county jailer to request that a Class C or D felon be transferred from the county jail to a state correctional institution.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 532.100(5).

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes the transfer request process required by KRS 532.100(5).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes the process for county jails to request that a Class C or D felon be transferred to a state correctional institution.

(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 updates the Division of Local Facilities to the Classification Branch Manager.

(b) The necessity of the amendment to this administrative regulation: To update the process used to request a transfer.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment revises the process to request a transfer for jails housing Class C and D felons.

(d) How the amendment will assist in the effective administration of the statutes: It updates the process used to request a transfer.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 4,878 Class C and D felons in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The jails send transfer requests to a different person.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A jailer may request transfer to a state institution a Class C or D felon presenting an escape risk, who is a danger to himself or others, who is an extreme security

risk, or who needs protective custody.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The transfer request process applies equally to all involved in the housing program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.100(1), 441.055, 532.100.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? For each inmate transferred, the Department of Corrections will not have to pay the $30.94 per diem to the local jail, but will instead pay the cost to incarcerate the inmate in the state facility (average $49.79 per day).

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: See (4)(a)-(d) for explanation.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 2:060. Procedures for housing of Class D and Class C felons.

RELATES TO: KRS 196.035, 197.020, 532.100

STATUTORY AUTHORITY: KRS 532.100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(4) requires the Department of Corrections to house qualifying Class D and Class C felons in county jails. This administrative regulation establishes the procedures to implement the required housing program.

Section 1. Eligibility. Any county housing qualified Class D and Class C felons pursuant to KRS 532.100(4) shall be eligible to continue to do so unless the department, through its minimum jail standards enforcement procedures established by KRS 441.075, orders a county jail to cease housing Class D and Class C felons.

Section 2. Submission of Documents for Class D Felons. In any county jail housing Class D felons, the jailer shall forward to the assessment and classification center the following documents, within ten (10) working days of receipt of the judgment, for each Class D felon for whom a transfer has not been requested:

(1) Picture which shall be updated annually;

(2) Any detainers;

(3) Any incident or disciplinary reports; and

(4) Body identification sheet.

Section 3. Custody Assignment for Class D Felons. (1) The assessment and classification center staff shall, within ten (10) working days of receipt of the presentence investigation and the judgment documents, review the inmate file and assign a custody classification level to the Class D felon.

(2) The AC Center staff shall forward the inmate file to Offender Information Branch, Central Office, which shall audit the file within five (5) working days of receipt.

(3) Central Office Offender Information, shall notify the jailer of the custody classification level assignment.

(4) If the custody level assigned is minimum or community, the Class D felon may participate in community service work or any program offered outside the secure perimeter of the jail.

(5) If the custody level assigned is restricted, the Class D felon may:

(a) Only participate in community service work under direct supervision of jail personnel [~~staff~~]; and

(b) Not participate in any outside program.

(6) If the custody level assigned is medium, close, or maximum, the Class D felon shall not be eligible to participate in any program or work outside the secure perimeter of the jail.

(7) The jailer may request the department to review the assignment ninety (90) days from the date of the last assignment. Any additional custody review may be completed as deemed necessary by the Classification Branch Manager.

Section 4. Assignment of Class C Felons. (1) The assessment and classification center shall identify and inform the jailer of a Class C felon who qualifies under KRS 532.100(4) to be housed in a county jail [~~Class C felons and the Division of Local Facilities shall inform the jailer of any felon who qualifies under KRS 532.100(4)~~].

(2) The jailer shall forward, within ten (10) working days of receiving the notice, the felon's fingerprints and photographs to the assessment and classification center, in order that the Class C felon may be processed into the program. The photograph shall be updated annually.

(3) The AC center shall notify the jailer when an inmate has been assigned as a Class C felon.

(4) Class C felons, as inmates with a community custody level as required by KRS 532.100, may perform community service work.

Section 5. Assessment Summary Reports. Prior to the meeting of the Parole Board, jail personnel [~~staff~~] shall prepare and submit an assessment summary report on each Class D and Class C felon to the Offender Information Branch via KOMS or electronically.

Section 6. Transportation. Jail personnel [~~staff~~] shall be responsible for the transportation of a Class D or Class C felon except as specified in KRS 431.215(1) and 441.510.

Section 7. Release Procedures. (1) The release of a Class D or Class C felon shall follow the procedure established by CPP 25.6, incorporated by reference in 501 KAR 6:020.

(2) Jail personnel [~~staff~~] shall not release a Class D or Class C felon to any other county jail or agency without submission of an external movement to the Director of Local Facilities or designee; any jail that is under order of the department relating to restrictions on state inmates shall receive prior authorization from the Director of Local Facilities before requesting state inmates from the Department or any other county jail. [~~without advance notice to the Director of Local Facilities or designee and entering the external~~

~~movement into KOMS.~~] A Class D or Class C felon shall not be released to another state or to federal authorities without advance notice and approval of the Director of Local Facilities or designee.

(3) Jail personnel [~~staff~~] shall notify the Director of Local Facilities or the Offender Information Branch of any detainer or holder lodged against the Class D or Class C felon by another jurisdiction.

Section 8. Furlough Program. (1) The Classification Branch Manager shall have the authority and responsibility to grant and monitor any furloughs of a Class D or Class C Felon.

(2) Eligibility for a furlough shall be determined as follows:

(a) The furlough of a Class D or Class C felon shall be a privilege, not a right.

(b) To be considered for a furlough, a community or minimum custody Class D felon or a Class C felon shall have spent at least sixty (60) days in the county jail since the date of the custody assignment.

(c) A Class D felon who is community custody or minimum custody or a Class C felon, who meets the requirement established in paragraph (b) of this subsection, may be considered for a forty-eight (48) hour furlough each quarter, beginning six (6) months after his final sentencing date. The total time on furlough shall not exceed eight (8) days each calendar year. There shall be a minimum of sixty (60) days between furloughs.

(d) To be considered for a furlough, a probation or parole violator who is a community or minimum custody Class D or a Class C felon shall have spent at least sixty (60) days in the county jail since the date of the custody assignment.

(e) A probation or parole violator who is a community or minimum custody Class D or a Class C felon, who meets the requirement established in paragraph (d) of this subsection, may be considered for a forty-eight (48) hour furlough each quarter beginning, six (6) months after his commitment date. The total time on furlough shall not exceed eight (8) days each calendar year. There shall be a minimum of sixty (60) days between furloughs.

(f) To be considered for a furlough, a Class D or Class C felon shall meet the furlough criteria established in CPP 25.4, incorporated by reference in 501 KAR 6:020, with the exception of the six (6) continuous months of minimum or community custody requirement.

Section 9. Escape. If a Class D or Class C felon escapes, the procedures established in CPP 25.6, incorporated by reference in 501 KAR 6:020, shall be followed.

Section 10. Medical Needs. The department shall pay each jail a per diem for state prisoners as established by KRS 532.100(6). The jail shall pay for routine medical and medication expenses. If the inmate requires an admission to a hospital with at least one (1) night stay or outpatient surgery in which a general anesthesia is used, the cost shall be paid by the department.

Section 11. Inmate Pay. A Class D or Class C felon on a work assignment shall be paid in accordance with Local Facilities guidelines 1.3 [~~CPP 19.3, incorporated by reference in 501 KAR 6:020~~].

Section 12. Good Time. For a Class D or Class C felon housed in a county jail, the awarding of:

(1) Statutory good time shall follow the procedures established in KRS 197.045(1)-(2);

(2) Meritorious good time shall follow procedures established in KRS 197.045(3) and CPP 15.3, incorporated by reference in 501 KAR 6:020.

(3) Educational good time shall follow procedures established in KRS 197.045(1) and CPP 20.1, incorporated by reference in 501 KAR 6:020.

Section 13. Annual Photograph. The jailer or [~~a~~] jail personnel [~~staff member~~] shall take a photograph each year of each Class D and Class C inmate and immediately send it by United States mail, via KOMS or email to Offender Information Services, Central Office, P.O. Box 2400, Frankfort, Kentucky 40602 [~~via KOMS or electronically~~].

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, Phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for housing Class C and D felons in county jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 532.100(4).

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes the procedures for housing Class C and D felons in county jails as required by KRS 532.100(4).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes the procedures for housing Class C and D felons in county jails.

(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 clarifies language in the regulation and revises the transfer process for Class C and D inmates between jails.

(b) The necessity of the amendment to this administrative regulation: To streamline the documentation requirements and to delete obsolete portions of the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment revises portions of the regulation of the Class C and D program described in KRS 532.100.

(d) How the amendment will assist in the effective administration of the statutes: It streamlines the documentation requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 4,878 Class C and D felons in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jails will need to follow the revised

process to release or transfer state inmates.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Department of Corrections will have information about jail inmate transfers or releases more quickly.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. Documentation requirements apply equally to all jails involved in program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.100(1), 441.055, 532.100.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated for the state. For the jails, for fiscal year 2011, the Department of Corrections will pay jails approximately $88 million for the housing, transportation, and medical care of the state inmates.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Approximately the same as (a).

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the Department of Corrections will pay the local jails approximately $88 million for the housing, transportation, and medical care of the state inmates. Plus, the Department of Corrections will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have staff and administrative costs, but the housing of Class C and D inmates is generally a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: See (4)(a)-(d) for explanation.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 2:070. Work release.

RELATES TO: KRS 533.010, 533.025

STATUTORY AUTHORITY: KRS 196.035, 197.020, 533.010(14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 533.010(14) requires the Department of Corrections to promulgate an administrative regulation to develop written criteria for work release privileges granted by the statute. This administrative regulation establishes work release procedures.

Section 1. (1) The criteria to be used in the determination of granting work release shall be the following:

(a) The defendant granted work privileges shall have a suitable job placement, at a lawful wage, as approved by the sentencing court.

(b) The defendant's job placement shall be within the boundaries of the Commonwealth and shall not require travel outside of the Commonwealth.

(c) The defendant shall provide or arrange transportation to and from the employment site in a lawful manner.

(d) The defendant's employer shall be willing to cooperate with all law enforcement agencies in the verification of the conditions of the defendant's work release.

(2) If the defendant is paying for a part of his incarceration through court-ordered work release, it shall be the responsibility of the jailer or designee to notify the Department [~~of Corrections~~]. The amount paid by the defendant toward his incarceration shall be forwarded to the Department [~~of Corrections~~] on a monthly basis along with the jail housing bill.

Section 2. The jailer may deny work release privileges to a defendant for violating any duly promulgated or adopted rule of the jail governing inmate conduct or work release including:

(1) Returning to the jail under the influence of drugs or alcohol;

(2) Promoting or attempting to promote contraband; and

(3) Failing to notify the jailer of any change in the status of his employment.

Section 3. Upon denial of work release privileges, a written report shall be completed stating the reasons for the suspension of these privileges and citing the rule or regulation that has been violated.

(1) The jailer shall provide a copy of the report to the defendant within twenty-four (24) hours.

(2) The jailer shall file the report and supporting documentation with the court of jurisdiction within the time specified in KRS 533.010(13).

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to: Amy V. Barker, Justice and Public

Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures to implement work release privileges for alternative sentence inmates and Class D and C felons in county jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 533.010(14) and 533.025(2).

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes the work release procedures for county jails as required by KRS 533.010(14) and 533.025(2).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes the work release procedures for Class D and C felons in county jails.

(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 standardizes terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To standardize terms used in the Chapter.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment standardizes terms in the Chapter and regulates work release required in KRS 533.010(14) and 533.025(2).

(d) How the amendment will assist in the effective administration of the statutes: It standardizes terms used in the Chapter.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 422 inmates paying for part of their incarceration due to work release to private jobs. The regulation also affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and the limited number of prisoners in the jails on work release.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied?

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 533.010, 533.025.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There are approximately 422 inmates paying for part of their incarceration due to work release to private jobs. The amount they pay is set by the court, pursuant to KRS 533.010(15). Any amount they pay saves the state that portion of the $31.34 daily per diem.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Approximately the same as in (a).

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of the state inmates. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. Work release inmates are a small portion of these costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:010. Definitions for 501 KAR Chapter 3.

RELATES TO: KRS 67A.028, 67B.020(1), 441.005, 441.045, 441.055, Ky. Const. Sec. 99, 152, 42 U.S.C. 15601-15609

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes definitions for 501 KAR Chapter 3, regulating full-service jail facilities.

Section 1. Definitions. (1) "Ceiling" means the overhead area in any area of the jail which is below the secure deck.

(2) "Commissioner" is defined in KRS 196.010(2).

(3)[~~(2)~~] "Dayroom" means a secure area with controlled access from the inmate living area, to which inmates may be admitted for daytime activities including dining, bathing, and selected recreation or exercise.

(4)[~~(3)~~] "Deck" means the secure overhead area of the jail, which is part of the security perimeter.

(5)[~~(4)~~] "Department" is defined in KRS 441.005(5).

(6)[~~(5)~~] "Detoxification area" means an area used to hold one (1) or more chemically impaired persons temporarily during the detoxification process until they can care for themselves.

(7)[~~(6)~~] "Direct supervision area" means an area used to house seventy (70) or fewer prisoners in which jail personnel [~~a corrections officer~~] is always present and directly supervising the prisoners.

(8)[~~(7)~~] "Dormitory" means:

(a) An area equipped for housing not less than three (3) nor more than thirty-six (36) persons; or

(b) If in a direct supervision area, an area equipped for housing not more than seventy (70) persons.

(9)[~~(8)~~] "Full-service jails" means jails that may house state prisoners pursuant to KRS 441.055 and that meet the standards established by 501 KAR Chapter 3.

(10) "Governing authority" means a county fiscal court, urban-county government, charter county government, consolidated local government, unified local government or regional jail authority. [~~(9) "Holding area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, or discharge, or until they can be moved to a general housing area.~~

(11)[~~(10)~~] "Jail" is defined in KRS 441.005(1).

(12)[~~(11)~~] "Jail Administrator" means the official appointed by a regional jail authority [~~board~~] and charged with the responsibility of administering the regional jail.

(13)[~~(12)~~] "Jail personnel" is defined in KRS 441.005(6).

(14)[~~(13)~~] "Jailer" means:

(a) The official duly elected or appointed pursuant to Section 99 or 152 of the Kentucky Constitution, charged with the responsibility of administering the jail;

(b) A department as defined in KRS 67B.020(1); or

(c) A correctional services division as created by KRS 67A.028.

(15)[~~(14)~~] "Medical authority" means the person or persons licensed [~~and certified~~] to provide medical care to prisoners in the jail's custody.

(16) "Passive Holding Area", "Diversion Holding Area" or "Temporary Holding Area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, or discharge, or until they can be moved to a general housing area.

(17)[~~(15)~~] "Pat or frisk" means a manual search of a clothed person and includes a visual inspection of the open mouth.

(18)[~~(16)~~] "Penal type" means furnishings, fixtures, and equipment approved by the department.

(19)[~~(17)~~] "Prisoner" is defined in KRS 441.005(3).

(20)[~~(18)~~] "Prisoner living area" means a group of rooms or cells that provide housing for the prisoner population.

(21)[~~(19)~~] "PREA" means the Prison Rape Elimination Act, 42 U.S.C. 15601-15609.

(22)[~~(20)~~]"Probing of body cavities" means a manual or instrument search of a person's oral, anal, vaginal, or other body cavity, performed by medical personnel.

(23) "Religion Reference Manual" means the Kentucky Department of Corrections Religion Reference Manual incorporated by reference in 501 KAR 6:080.

(24)[~~(21)~~] "Safety vestibule" means a defined space that promotes security by the use of two (2) or more doors used to contain and observe those who pass.

(25)[~~(22)~~] "Sally port" means an enclosed, covered vehicular drive-in, located adjacent to the jail intake area.

(26)[~~(23)~~] "Security area" means a defined space whose physical boundaries have controlled ingress and egress. [~~(24) "Security personnel" means full-time and part-time personnel operating within a security area.~~]

(27) "Sexually abusive conduct" includes but is not limited to, sexual contact, sexual intercourse and deviate sexual intercourse, as defined by KRS 510.010 and sexual abuse as defined by Nation Prison Rape Elimination Commission's Standards for the Prevention, Detection, Response and Monitoring of Sexual Abuse in Adult Prisons and Jails.

(28) "Sick Call" means the evaluation and treatment of an ambulatory patient in a clinical setting, either on or off site, by the medical authority.

(29)[~~(25)~~]"Special Needs Area" means an area used to hold one (1) person for direct observation when displaying suicidal or violent tendencies or other physical or emotional expressions.

(30)[~~(26)~~] "Strip search" means a body search during which a person is required to open or remove clothing, during which a person is subject to visual inspection of the torso, female breast, genital area, anal area, and other body cavities.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 201 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes definitions for 501 KAR Chapter 3 concerning full-service jails that house state prisoners.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It provides definitions for 501 KAR Chapter 3, which establishes minimum standards for full-service jails that house state prisoners as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes definitions for the regulations concerning full-service jails.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It adds definitions for commissioner, governing authority, religious reference manual sexually abusive conduct, and sick call. It revises the definition for various holding areas.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear definitions for the full-service jail regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates

that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will all receive better understanding of the program and its requirements by having updated and clarified definitions.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The definitions apply equally to all involved in full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Other Explanation: See (4)(a)-(d) for explanation.

Revenues (+/-):

Expenditures (+/-):

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:020. Administration; management.

RELATES TO: KRS 69.210, 202A.091, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation sets forth procedures for the administration and management of those jails.

Section 1. Policy and Procedure-Organization. (1) The jailer or jail administrator for a jail that houses state prisoners shall develop and maintain an organizational chart and a policy and procedures manual that has been adopted by the governing authority[~~an operations manual of policy and procedure that has been adopted by the fiscal court or regional jail authority~~] and filed with the department [~~of Corrections~~].

(2) The written policy and procedures manual shall be made available to employees. Employees shall sign documentation attesting they have read and will comply with the jail's policy and procedure manual.

(3) The policy and procedures[~~operations~~] manual shall include, at a minimum, the following aspects of the jail's operation:

(a) Administration;
(b) Fiscal management;
(c) Personnel;
(d) Security and control;
(e) Sanitation and management;
(f) Medical services;
(g) Food services;
(h) Emergency and safety procedures;
(i) Classification;
(j) Prisoner programs;
(k) Prisoner services; [~~and~~]
(l) Admission and release; and[~~.~~]
(m) Training.

(4) The policy and procedures [~~operations~~] manual shall be reviewed, [~~and~~] updated and any changes approved by the governing authority at least annually. All revisions shall be marked with the effective date and filed with the department [~~of Corrections~~].

Section 2. Legal Assistance. (1) The jailer for a jail that houses[~~house elects to~~] state prisoners shall be represented and advised by the county attorney as provided in KRS 69.210.

(2) The county attorney shall advise the governing authority [~~fiscal court~~] in writing if legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The governing authority [~~fiscal court~~] shall provide funds for adequate legal representation for the jailer if the jailer has acted within his official capacity and is involved in civil or criminal litigation as a result. The governing authority [~~fiscal court~~] shall be encouraged to carry liability insurance for the jail employees [~~staff~~] and other county officials.

Section 3. Legal Assistance for Regional Jails. The jail administrator for a regional jail that houses [~~which elects to house~~] state prisoners shall be represented and advised by the county attorney in the county in which the regional jail is located.

Section 4. Public Information. (1) The jailer for a jail that houses [~~elects to house~~] state prisoners shall develop and implement a procedure for the dissemination of information about the jail to the public, to government agencies, and to the media. The public and prisoners shall have access to the procedures.

(2) With the prisoner's written consent on a form authorizing release of information, news media shall be permitted to interview a prisoner as set forth in the [~~With the consent of the prisoner, news media shall be permitted to interview any prisoner as set forth in the~~] jail's policy and procedures [~~procedure~~] manual except if the safety and security of the jail is affected.[~~(3) Written policy~~

~~and procedure shall set forth the time and length allowable for prisoner interviews.~~

~~(4) All official statements to the news media, relating to jail administration policy, shall be made by the jailer only or his designee.~~

~~(5) Release of prisoner information.~~

~~(a) All requests for information shall be addressed to the jailer.~~

~~(b) Governmental agencies shall be provided with information pertinent only to their specific function.~~

~~(c) Private citizens shall only be provided with information made available to the media.~~

~~(6) Information shall not be released that is detrimental to another prisoner.~~]

Section 5. Information Systems. The jailer for a jail that houses [~~elects to house~~] state prisoners shall establish and maintain an information system that shall comply with the requirements of this section.

(1) Jail information and prisoner records shall be retained in written form or within computer records.

(2) Jail information and prisoner records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Prisoner records shall be maintained as required by the Department of Libraries and Archives pursuant to 725 KAR Chapter 1. [~~Written guidelines shall specify the length of time a prisoner record shall be maintained after a prisoner's release from custody and the conditions under which archives are maintained.~~]

(3) A telephonic report to the department [~~of Corrections~~] shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence, and a final written report shall be made within forty-eight (48) hours. This report shall be placed in the jail record. Extraordinary or unusual occurrences shall include, but shall not be limited to:

(a) Death of a prisoner;

(b) Suicide or attempted suicide that constitutes a serious health situation;

(c) Serious injury, whether accidental or self-inflicted;

(d) Escape or attempted escape from confinement;

(e) Fire;

(f) Riot;

(g) Battery, whether by jail personnel [~~a staff member~~] or prisoner;

(h) Sexually abusive conduct [~~Sexual assaults~~];

(i) Occurrence of contagious or infectious disease, or illness within the facility;

(j) Violent acts or behavior by either mental inquest detainees held under KRS Chapter 202A or prisoners known to be or suspected to be mentally ill or mentally retarded; and

(k) Any serious event that threatens the safety or security of the facility or jail personnel[~~staff~~].

(4) Each jail that houses[~~electing to house~~] state prisoners shall keep a log of daily activity within the jail. [~~(5) Each jail electing to house state prisoners shall assign a staff member the responsibility to enter, maintain, and audit the training records for the jail's staff. The assigned staff member shall utilize the current DOC training records management system to meet this responsibility. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.~~]

(5)[~~(6)~~] Each jail that houses [~~electing to house~~] state prisoners shall be required to provide the department [~~of Corrections~~] with a weekly population update that shall include the number of state prisoners, federal prisoners and county prisoners.[~~(7) Each jail electing to house state prisoners shall provide the Department of Corrections with a monthly "PREA" report via KOMS or electronically that shall include the number of incidents of sexual contact between staff, staff on inmate, inmate on staff, and inmate on inmate.~~]

(6)[~~(8)~~] Each jail that houses [~~electing to house~~] state prisoners shall provide the Department [~~of Corrections~~] with all external movements of state prisoners via KOMS or electronically and on a daily basis. This information shall be sent to the Division of Local Facilities.

Section 6. Prisoner Records. (1) The information required by 501 KAR 3:120 and 3:130 for admission and release shall be retained for each prisoner. Other information retained in each prisoner's jail record shall include but not be limited to:

(a) Court orders;

(b) Personal property receipts;

(c) Infraction reports;

(d) Reports of disciplinary actions;

(e) Work record and program involvement; and

(f) Unusual occurrences and in the event of the death of a prisoner, disposition of the prisoner's property and remains.

(2) Medical records shall be maintained as required by 501 KAR 3:090.

(3) The jailer for a jail that houses [~~which elects to house~~] state prisoners shall ensure that prisoner records are safeguarded in accordance with relevant federal and state laws and administrative regulations.

(4) The jailer shall not release information, other than public information, to individuals other than law enforcement or court officials unless the prisoner has signed a form authorizing release of information [~~consent form~~]. A copy of the signed [~~consent~~] form shall be maintained in the prisoner's record. This form shall include but not be limited to:

(a) Name of person, agency, or organization requesting information;

(b) Name of facility releasing information; [~~(c) Specific information to be disclosed;~~]

(c)[~~(d)~~] Purpose of the information;

(d)[~~(e)~~] Date consent form is signed; and

(e)[~~(f)~~] Signature of prisoner.[~~; and (g) Signature of employee witnessing the prisoner's signature.~~]

(5) All jail records maintained on mental inquest detainees held under KRS Chapter 202A shall be kept separate from any other jail records. Mental inquest records are confidential and shall be made available for examination only as provided in KRS 202A.091. Upon an order of expungement pursuant to KRS 202A.091(2), the jailer for a jail that houses[~~elects to house~~] state prisoners shall seal the records and the mental inquest detainee's stay at the jail shall be deemed never to have occurred.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LaDonna H. Thompson, Commissioner
Rodney Ballard, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10:00 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to: CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, Phone (502) 564-3279, Fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the administration and management of full-service jails that house state prisoners.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It establishes minimum administrative and management standards for full-service jails, as required by KRS 441.055(1)(b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum administrative and management standards for full-service jails.

(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 revisions standardize terms used within the Chapter and some of the provisions concerning release of information were deleted to allow the jail to determine those matters. Telephonic notice of extraordinary occurrences was added. Training records requirements were moved to a new training regulation within the Chapter.

(b) The necessity of the amendment to this administrative regulation: To update the minimum standards required by KRS 441.055.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jail Standard Commission recommendations as required by KRS 532.100.

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear administrative and management standards for full-service jails.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The jails will have to comply with the updated documentation requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The jails will have more efficient and effective policies and procedures.

(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 funding to be used for the implementation and enforcement of this administrative regulation: Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Other Explanation: See (4)(a)-(d) for explanation.

Revenues:

Expenditures

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:030. Fiscal management.

RELATES TO: KRS 43.070, 68.020, 441.055, 441.135, 441.215, 441.235

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes fiscal management procedures to be followed in full-service jails.

Section 1. Budgeting. The jailer, county judge/executive and treasurer shall prepare and present a line item budget request to the governing authority [~~fiscal court~~] in accordance with KRS 441.215.

Section 2. Accounting. (1) The county treasurer shall maintain fiscal records which clearly indicate the local cost for operating the jail in accordance with KRS 68.020 and 441.235.

(2) Fiscal records shall have an itemized breakdown of the total operating expenses including but not limited to wages, salaries, food and operating supplies.

Section 3. Canteen. As provided in KRS 441.135, each jailer may establish a canteen to provide prisoners with approved items.

Section 4. Audits. (1) The county jail budget shall be audited in accordance with KRS 43.070. (2) The records of income, expense, and disbursements of the jail canteen fund shall be examined annually by the Auditor of Public Accounts concurrently with the annual audit of the county conducted in accordance with KRS 43.070(1)(a), unless the Auditor of Public Accounts declines to perform the examination of the canteen fund or has failed to respond to written notice of intent to employ a certified public accountant within thirty (30) days of receipt of the notice.

(a) If the county judge/executive notifies the Auditor of Public Accounts with specific or known jail canteen fund concerns or irregularities, the auditor shall thoroughly investigate the noted concerns or irregularities in the examination if, in the auditor's judgment, the investigation is warranted.

(b)[~~The Auditor of Public Accounts shall forward a copy of the report of any jail canteen examination it performs to the Kentucky Department of Corrections.~~

~~(c)~~] The jailer shall forward a copy of the report of any jail canteen audit to the [~~Kentucky~~] department [~~of Corrections~~].

(c)[~~(d)~~] The cost of the canteen fund examination shall be paid from the canteen fund as an allowable expense. If the jail's canteen fund is insufficient to cover the expense of the examination, the expense shall be borne by the county jail fund.

Section 5. Payroll. Jail employees shall be paid on the same dates as county employees.

Section 6. Inventory. Each jailer shall implement and utilize the established inventory procedure of the county.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the fiscal management of full-service jails jails that house state prisoners.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum fiscal management standards for full-service jails, as required by KRS 441.055(1)(b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum fiscal management standards for full-service jails.

(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 no longer requires the auditor of public accounts to send a copy of the canteen audit to the Kentucky Department of Corrections. It standardizes terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear fiscal management standards for full-service jails.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails and an unknown number of staff within the Auditor's office.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action required. The Auditor's office may stop sending an audit report to Corrections.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Standardized terms increase understanding.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (includ-

ing cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: See (4)(a)-(d) for explanation.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:040. Personnel.

RELATES TO: KRS 441.045, 441.055, 441.115

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes personnel procedures to be followed in full-service jails.

Section 1. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of three (3) jail personnel, excluding jail personnel designated for communication. A staffing analysis may be requested by the jailer or governing authority.[~~Each jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of two (2) staff members, excluding communication staff. If requested by the jailer or fiscal court, the Department of Corrections may conduct a staffing analysis.~~]

(2) If a female prisoner is booked, detained, or otherwise lodged in the jail, the jail shall provide a female deputy to perform twenty-four (24) hour awake supervision.

Section 2. Qualifications. All persons who work inside the secure perimeter of the jail shall be at least twenty-one (21) years of age.

Section 3. Compensation. Each employee shall receive a wage at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies. [~~Section 4. Training; Curriculum. (1) In order to qualify for the training expense allowance under KRS 441.115, the jailer shall successfully complete a minimum of forty (40) hours annual in-service training certified by the department.~~

~~(a) Local corrections training efforts shall be certified by the department prior to the training.~~

~~(b) The Curriculum Advisory Committee shall advise the department on topics for training curriculum.~~

~~(c) Jailer training shall be delivered on a regional basis by the department or by computer based training, if appropriate.~~

~~(2) Jail personnel shall attend a minimum of sixteen (16) hours annual in-service training delivered by the department on a regional or local basis or approved by the department if delivered by another agency.~~

~~(3) Jail staff who are assigned to a direct supervision area shall receive forty (40) hours of preservice training related to direct supervision. The training shall be approved by the Department of Corrections.~~]

Section 4[~~5~~]. Policy and Procedure. Written policy shall specify that equal employment opportunities exist for every [~~staff~~] position.

Section 5[~~6~~]. Physical Fitness. The jailer shall ensure a level of physical fitness is maintained that will allow each employee to satisfactorily perform his or her duties.

Section 6[~~7~~]. Code of Ethics. (1) The jailer shall make a written code of ethics available to each employee.

(2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include the following:

(a) An employee shall not:

1. Exchange a personal gift or favor with a prisoner, prisoner's family, or prisoner's friends;
2. Accept any form of bribe or unlawful inducement;
3. Perform duties under the influence of an intoxicant or consume an intoxicant while on duty;
4. Violate or disobey an established rule, administrative regulation, or lawful order from a superior;
5. Discriminate against a prisoner on the basis of race, religion, creed, gender, national origin, or other individual characteristic;
6. Employ corporal punishment or unnecessary physical force;
7. Subject a prisoner to physical or mental abuse;
8. Intentionally demean or humiliate a prisoner;
9. Bring a weapon or an item declared as contraband into the jail without proper authorization;
10. Engage in critical discussion of jail employees[~~staff~~] or a prisoner in the presence of another prisoner;
11. Divulge confidential information without proper authorization;
12. Withhold information which threatens the security of the jail, jail employees[~~its staff~~], visitors, or the community;
13. Through negligence or intentionally, endanger the well-being of self or another;
14. Engage in a business or profitable enterprise with a prisoner;
15. Inquire about, disclose, or discuss details of a prisoner's crime other than as may be absolutely necessary in performing official duties;
16. Enter into an intimate, personal relationship with a prisoner while the prisoner is incarcerated at the same jail that the employee is employed by; or
17. Enter into an intimate, personal relationship with a former prisoner of the jail within six (6) months of that prisoner's release; and

(b) An employee shall:

1. Comply with established rules, administrative regulations, and lawful orders from a superior;
2. Treat each prisoner in a fair, impartial manner; and
3. Report a violation of the code of ethics to the jailer.

(3) A violation of the code of ethics shall be made a part of the employee's personnel file.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 201 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at

this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes personnel procedures for full-service jails that house state prisoners.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum personnel standards for full-service jails as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum personnel standards for full-service jails.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It increases the minimum number of jail personnel at all times to three and removes training requirements that have been moved to a new training regulation in the Chapter. Its standardizes terms being used within the Chapter.

(b)The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It updates the minimum personnel standards as required by KRS 441.055.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jailers would increase their minimum staff to three jail personnel at all times.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): If the jail does not have three jail personnel on duty, then there would be an additional salary cost depending on whether the increase is full time or part time and the salary provided by the jail.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Jailers would a greater ability to maintain control of the jail and respond in an emergency.

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

(a) Initially: Salary cost of additional staff.

(b) On a continuing basis: Salary cost of additional staff.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted 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: A funding increase may be needed depending on the salary cost of any additional staff.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees established or increased.

(9) TIERING: Is tiering applied? No. Personnel standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:050. Physical Plant.

RELATES TO: KRS 441.045, 441.055, 441.064, 441.075

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes standards and procedures to be followed in the design and construction of full-service jails.

Section 1. Definitions. (1) "Construction authority" is defined in

KRS 441.015.

(2) "Division" means the Department of Corrections Division of Local Facilities.

(3) "Expansion" means a renovation as described in KRS 441.450(2).

(4) "Local correctional facility" is defined in KRS 441.015.

(5) "Renovation" means changes to the physical plant of or construction on an existing local correctional facility that is not an expansion as described in KRS 441.450(2).

Section 2. Consultation. The department may [~~department shall~~] provide to a unit of local government [~~county government~~] seeking to remodel an existing jail or construct a new jail, a consultant knowledgeable in the design, utilization, and operation of jails. The consultant may [~~shall~~] meet with the appropriate officials of that county and advise them concerning:(1) Site selection;

(2) Probable need as it relates to capacity and types of prisoners to be housed;

(3) Sources of financing for constructing;

(4) Laws and administrative regulations relating to treatment of prisoners;

(5) Laws and administrative regulations relating to facilities for prisoners;

(6) Sources of revenue for operations of the jail;

(7) Probable cost for operation of the jail; and

(8) Potential for sharing facilities with adjoining counties.

Section 3. Application for Construction. A unit of local government shall submit an application to the division for approval prior to the commencement of any construction for the renovation of an existing local correctional facility. A unit of local government shall also submit the applications required by KRS 441.430 to the division. The application shall:

(1) Be signed by the:

(a) County judge-executive for each county involved in the proposal;

(b) Highest executive of a unit of local government other than a county; or

(c) Head of Regional Jail Authority, if applicable;

(2) State in detail the need for the specific request being proposed;

(3) Identify the unit of local government submitting request;

(4) Identify other units of local government that are partnering in the pursuit of a full service regional jail, if applicable;

(5) State the following information for the current jailer:

(a) Name;

(b) Address; and

(c) Phone number;

(6) Identify the type of local correctional facility currently being used;

(a) Full service;

(b) Regional full service;

(c) Life safety; or

(d) None.

(7) Identify the type of local correctional facility which will exist after the proposed construction is completed:

(a) Full service; or

(b) Regional full service;

(8) If construction is proposed at a location other than where the current local correctional facility is located, then provide the following information for the new property:

(a) Address;

(b) Description of new property;

(c) Explanation of ownership of new property; and

(d) Estimated cost to purchase property if not owned by the unit of local government proposing construction;

(9) If the proposed construction is for a new local correctional facility, then identify the size of facility being requested using the bed capacity increments required for plans in KRS 441.420(3).

(10) If the proposed construction is for an expansion that increases the square footage as described in KRS 441.450(2), then state the:

(a) Number of proposed additional beds; and

(b) Proposed additional square footage;

(11) If the proposed construction is for a renovation, then state:

(a) The purpose of the renovation; and

(b) The amount of any proposed additional square footage;

(12) For the current local correctional facility, state the:

(a) Current capacity;

(b) Average daily population (ADP) for the preceding two (2) years;

(c) Total amount of remaining bond indebtedness;

(d) Amount of monthly debt installment payment; and

(e) Remaining number of payments on any note;

(13) Identify the architect, consultant, other person or entity with which the unit of local government consulted for the construction proposal; and

(14) If the construction authority requires additional information be provided for its application process, then the unit of local government shall supply the additional information required by the construction authority to the Division when filing its application.

Section 4. Documentation Required for Application. (1) Provide a copy of the following documents with any application submitted to the division:

(a) Ordinance for the unit of local government showing affirmative vote for proposed construction for local correctional facility;

(b) If applicable, resolution or other verified document showing regional jail authority affirmative vote for proposed construction for local correctional facility;

(c) Deed, lease, or legal description of new property for proposed construction;

(d) Local correctional facility budget for preceding two (2) years;

(e) General budget for any unit of local government proposing construction;

(f) Feasibility study or other documentation provided by any architect, entity or other person that consulted on the proposed construction; and

(g) Documentation showing that the unit of local government has sufficient bonding and revenue sources to pay the bond indebtedness, operating costs and maintenance costs over the anticipated life of the note for the proposed construction; and

(2) If the construction authority requires additional documentation be provided for its application process, then the unit of local government shall supply the additional documentation required by the construction authority to the Division when filing its application.

Section 5. Site Selection Review. The following criteria shall be considered by the Division in its site selection review [~~Site Acceptance. A jail shall not be built without site acceptance by the department. The following criteria shall be considered in site selection~~]:

(1) Size;

(2) Proximity to court;

(3) Proximity to community resources;

(4) Availability of public transportation;

(5) Environmental health;

(6) Adequate parking; and

(7) Provisions for future expansion.

Section 6 [~~Section 3~~]. Construction Documents. (1) A unit of local government shall submit plans and specifications to the Division for approval prior to the commencement of any construction for the renovation of an existing local correctional facility. The division may waive some of the requirements of this section on a case-by-case basis for a renovation depending on the specifics proposed for the renovation.

(2) A unit of local government shall submit plans and specifications for the applications required by KRS 441.430 to the Division.

(3) Plans and specifications for a local correctional facility shall meet the following criteria and contain the following documentation: [~~Prior to the renovation or construction of any jail, or for information review purposes, plans and specifications shall be submitted to the department for review and approval. Plans and specifications for jail renovation or construction shall contain the following criteria and documentation:~~]

(a) A programming phase to include: [~~(1) For major renovation~~

~~or new construction or information review purposes, a programming phase, to include:~~]

1.[~~(a)~~] Evaluation of existing facility;

2.[~~(b)~~] Population analysis as based on the NIC (National Institute of Corrections) staffing analysis, and shall include, jail's operations, jail programs, court location, and transportation issues;

3.[~~(c)~~] Space requirements based on population analysis and standards for the facility and site outlined in this administrative regulation;

4.[~~(d)~~] Staffing analysis;

5.[~~(e)~~] Cost analysis to include construction and operation costs;

6.[~~(f)~~] Financing alternatives, if applicable;

7.[~~(g)~~] Design-construction time schedule; and

8.[~~(h)~~] Summary and recommendations.

(b)[~~(2)~~] A schematic phase to include [~~containing~~]:

1.[~~(a)~~] A scale drawing of each floor plan with proposed rooms and areas one-eighth (1/8) inch minimum;

2.[~~(b)~~] A scale drawing of the site, locating the building, parking and other facilities one (1) inch equals fifty (50) feet;

3.[~~(c)~~]Documentation of site as to:

i.[~~1.~~] Size;

ii.[~~2.~~] Proximity to court;

iii.[~~3.~~] Proximity to community resources;

iv.[~~4.~~] Availability of public transportation;

v.[~~5.~~] Environmental health;

vi.[~~6.~~] Adequate parking; and

vii.[~~7.~~] Provisions for future expansion.

4.[~~(d)~~] Sections through the proposed structure indicating deck heights of rooms, mechanical spaces, roof slopes and other related information;

5.[~~(e)~~] Scale elevation drawing of exterior walls;

6.[~~(f)~~] Schematic cost estimate to include revised construction and operation costs; and

7.[~~(g)~~] A revised design-construction time schedule.

(c)[~~(3)~~] A design development phase containing:

1.[~~(a)~~] A scale drawing on each floor plan with proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;

2.[~~(b)~~] All necessary construction drawings including construction details;

3.[~~(c)~~] Specifications for materials and workmanship;

4.[~~(d)~~] A proposed contract with general and special conditions;

5.[~~(e)~~] Engineering calculations for the foundations, structure, heating, ventilating, air conditioning, lighting and plumbing; and

6.[~~(f)~~] Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.

(d)[~~(4)~~] Construction document phase containing:

1.[~~(a)~~] Revised design development construction drawings following review by all applicable agencies, signed by an architect registered in the Commonwealth of Kentucky, and revised if necessary to include changes required by the division [~~department~~]; and

2.[~~(b)~~] Revised design development specifications of material and workmanship following review by all applicable agencies.

(e)[~~(5)~~] A contract administration phase containing:

1.[~~(a)~~] Signed copies of the contracts for construction, financing and bonding;

2.[~~(b)~~] Signed copies of the construction permits; and

3.[~~(c)~~] Documentation of required review by other applicable state agencies.

(f)[~~(6)~~] Every change order shall be submitted to the Division jail consultant [~~department~~] for review and approval.

Section 7 [~~Section 4~~]. Approval of [~~Renovation,~~] Construction Plans and Specifications. (1) Construction shall not begin until the construction plans have been approved by the division and construction authority for the document phase. The division shall [~~document phase has been approved by the Division of Local Facilities. The department shall~~]:

(a) Review each complete application [~~submission~~] within thirty (30) days of receipt; and

(b) For a renovation, issue:

1. An approval;

2. An acceptance with required changes; or

3. A rejection, with reasons stated.

(c) For an expansion or new local correctional facility, issue a recommendation to the construction authority whether to approve construction; or

(d) For an incomplete application, inform the applicant of the information or documents that need to be submitted to complete the application:

(2) A request for changes to the plans shall be submitted to the division and shall include a description of the changes requested and the reasons for the changes; and[~~Issue a letter of~~:

~~1. Approval;~~

~~2. Acceptance with required changes; or~~

~~3. Rejection, with reasons stated.~~

~~(2) Depending on the site of the proposed construction, renovation or addition, the department may combine two (2) or more of the phases outlined in Section 3 of this administrative regulation, for review and approval.~~]

(3) A change to the approved plans [~~plan~~] shall require redrawing unless specifically exempted by the department. Specifications shall be rewritten to reflect a change.

Section 8 [~~Section 5~~]. Waiver of Compliance. (1) The department may grant a waiver of the implementation of the physical plant standards in Section 9 of this administrative regulation for an existing jail if the department determines that:

(a) [~~That~~] strict compliance will [~~shall~~] cause unreasonable difficulties;

(b) [~~That~~] a waiver will [~~shall~~] not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operation of the jail; and

(c) [~~That~~] compliance may [~~shall~~] be achieved in a manner other than that specified, but in a manner that is sufficient to meet the intent of this administrative regulation.

(2) If a waiver from a standard is desired, the responsible unit of local government [~~local authority~~] shall submit a written request to the department. The written request shall include the following information:

(a) Citation of the specific standard involved;

(b) Identification and description of the specific difficulties involved in meeting strict compliance;

(c) Description of the alternative proposed; and

(d) Provision of sufficient documentation which shall demonstrate that the waiver, if granted, will [~~shall~~] not jeopardize the security, supervision of prisoners, programs, or the safe, healthful, or efficient operation of the jail.

(3) A waiver, if granted by the department, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the department as conditions upon the waiver. A waiver shall not be granted for longer than twelve (12) months. A waiver granted for a twelve (12) month period shall be reviewed for reapproval at the end of the period.

Section 9 [~~Section 6~~]. Physical Plant Design Standards. New local correctional facilities shall comply with the physical plant design standards in this section. All existing local correctional facilities that are in operation shall comply with the physical plant design standards, unless the facility has obtained a waiver from the department pursuant to Section 8 of this administrative regulation for a standard in this section. The department may require new local correctional facilities or the expansion or renovation of an existing local correctional facility to comply with the additional requirements incorporated by reference in Section 11 of this administrative regulation. [~~Facility Design. All existing jails that are in operation and have prior approval from the department shall be exempt from the requirements of this section until the facility is renovated. Depending upon its size and intended use, each jail shall include within its walls the following facilities and equipment:~~]

(1) Entrances. Each jail shall have three (3) separate and distinct entrances: a public entrance, a prisoner entrance and a service entrance. The department may permit these entrances to be combined.

(a) Public entrance. The purpose of this entrance shall be to

divert the general public from the security area of the jail and from contact with incoming prisoners. This area shall be the location for the general public to conduct their business at the jail. The following design features shall be incorporated:

1. Provide a clear view of this entrance from the control room by means of direct surveillance or closed circuit TV; and

2. Meet the requirements for handicapped persons.

(b) Service entrance. The purpose of this entrance shall be to provide access to service vehicles and delivery trucks with minimum security risks. It shall be located in close proximity to storage rooms and the kitchen area.

(c) Prisoner entrance. The purpose of this entrance shall be to provide secure and controlled access to the jail for prisoners. The entrance shall be serviced by an enclosed drive-in sally, located adjacent to the jail intake area, and port made secure by electronically or manually operated doors for entrance and exit, or a secure walk-in vestibule and shall incorporate the following design features:

1. Be located adjacent to the booking area;

2. Be monitored from the control room;

3. Be free of steps or other obstacles;

4. Be protected from inclement weather;

5. Have a security penal-type pistol locker in the sally port or vestibule; and

6. Have approved penal-type hardware and equipment.

(d) If the vestibule is used for outside entrance, at least the outer entry door shall be remotely operated.

(2) Exits. An opening in the security perimeter shall be secured with a penal device. Fire exits, if possible, shall open into controlled, secured courts or exercise areas.

(3) Administrative areas. Administrative areas shall provide space outside the secured area of the jail for the housing of administrative offices and to accommodate the public. Administrative areas shall contain the following additional areas:

(a) A waiting area which shall provide:

1. Space for the general public;

2. Protection from inclement weather; and

3. If the facility is a new jail, ADA compliant toilet facilities for both male and female persons and drinking fountains;

(b) A visiting area, public side which shall:

1. Provide for private communication with prisoners;

2. Be located in close proximity to the waiting area; and

3. Provide at least one (1) ADA compliant space.

(c) An office area which shall be of sufficient space to house the administrative function of the jail; and

(d) An entrance to the security area which shall:

1. Provide secure access to the security area;

2. Be of penal-type; and

3. Have access controlled from the security area.

(4) Security area. The area shall enclose those facilities and services required for or used by prisoners. It shall contain a booking area. The purpose shall be to provide a private and separate area, properly equipped to carry out admission and release procedures. The equipment shall be penal-type. This area shall be designed for different classes of prisoners. Design features for this area shall include:

(a) Close proximity to a secure area for storage of prisoner personal property;

(b) Close proximity to an area for photography and fingerprinting;

(c) Close proximity to an area for showering, delousing, and strip searching a prisoner and which assures privacy for the prisoner;

(d) Close proximity to temporary holding and detoxification cells; and

(e) Located in a manner to be monitored by a control room;

(5) Detoxification area. The purpose shall be to provide an area to separate intoxicated prisoners from the general prisoner population. Design features shall include:

(a) A minimum of fifty (50) square feet per prisoner;

(b) A minimum of eight (8) feet deck height including soffits;

(c) One (1) bunk of approved material thirty (30) inches wide by seventy-two (72) inches long by four (4) inches high for each prisoner;

(d) A penal commode, lavatory and a flush floor drain controlled from outside the cell;

(e) A bubble-type drinking fountain;

(f) These fixtures and equipment shall be penal-type;

(g) Each surface inside the area shall be smooth, flush, and free of sharp edges and protrusions;

(h) Each horizontal surface (the bunk and the floor) shall be sloped (one-fourth (1/4) of an inch to the foot) to the floor drain;

(i) The protruding corners (except at deck) shall be covered;

(j) Deck, walls, surfaces of the wall base and floors shall be of approved masonry, concrete or steel construction; and

(k) Each detoxification [~~detox~~] cell shall have sufficient penal-type fixtures capable of providing twenty (20) foot-candles of light with a nightlight capable of providing five (5) foot-candles of light.

(6) Holding areas. The purpose of holding areas shall be for temporary detention not to exceed eighteen (18) hours in secure holding or eighteen (18) hours in diversion holding.

(a) Design features for secure holding shall include:

1. Twenty-five (25) square feet per rated capacity with a minimum size of no less than fifty (50) square feet;

2. Eight (8) feet deck height;

3. One (1) penal-type bench per rated capacity;[~~.~~]

4. Penal-type equipment;

5. One (1) penal-type lavatory and commode;

6. One (1) penal-type light fixture capable of providing twenty (20) foot-candles of light; and

7. Decks, walls, surfaces of wall bases and floors that are constructed of approved masonry, concrete or steel construction.

(b) If a diversion holding area is provided, features and requirements shall include:

1. Twenty-five (25) square feet per rated capacity with a minimum size of fifty (50) square feet;

2. Total rated capacity not to exceed twenty-four (24) persons;

3. One (1) bathroom for a rated capacity of eight (8) or less; two (2) bathrooms for a rated capacity of nine (9) or more;

4. At least one (1) water fountain that is located in the area;

5. A phone system that is available for use by prisoners;

6. Fire-rated construction with penal hardware, windows and door;

7. Fire-rated chairs and tables per rated capacity but no beds;

8. An unobstructed view into the area; and

9. Areas that allow constant in-person surveillance.

(c) Policy and procedure shall set forth criteria for placement of prisoners in the diversion holding area.

(7) Medical exam area. The purpose of this room shall be to provide a separate and secure area for medical examinations and rendering medical treatment. Design features shall include:

(a) Minimum dimensions that are no less than 100 [~~ten (10) feet~~];

(b) Minimum deck height that is eight (8) feet including soffits;

(c) One (1) lavatory or counter sink;

(d) One (1) work counter;

(e) Secured lockers for medical equipment, medical instruments, medications, bandages, etc., secured to the floor or walls or a secure closet;

(f) One (1) or more medical examination tables;

(g) Electrical power outlets with at least one (1) outlet or power source connected to an emergency power source;

(h) Decks, walls, and floors constructed of approved masonry, concrete or steel construction;

(i) A secure area for storage of medication and medical equipment if medical services are provided outside the jail; and

(j) One (1) bathroom with commercial grade fixtures.

(8) Visiting area, prisoner side. The purpose shall be to provide secure and private visitation for the prisoners. The equipment and furnishings shall be of penal-type and permanently attached. At least one (1) area shall [~~is to~~] be ADA compliant.

(9) Conference area. The purpose of this area shall be to provide space for confidential conferences between prisoners and lawyers, counselors, clergy, etc. Design features shall include:

(a) Doors, windows, and light fixtures shall be penal-type;

(b) Walls, floors, and decks shall be of approved masonry, concrete or steel construction; and

(c) Furnishings shall be noncombustible and nontoxic as ap-

proved by the department.

(10) Multipurpose room. The purpose of this area shall be to provide space for assembly of prisoners for specific program activities.

(a) The multipurpose room shall be:

1. In jails with 100 or fewer beds, a minimum of 250 square feet;

2. In jails with 101 to 300 beds, a minimum of 500 square feet or two rooms with a minimum of 250 square feet each; and

3. In jails with 301 or more beds, a minimum of 1,000 square feet or four (4) rooms with a minimum of 250 square feet each.

(b) Design features shall include:

1. Doors, windows, and light fixtures shall be penal-type;

2. Walls, floor, and deck shall be of approved masonry, concrete or steel construction;

3. Furnishings shall be noncombustible and nontoxic as approved by the department; and

4. Deck shall be of approved construction.

(11) Outdoor recreation. The purpose of this area shall be to provide secure outdoor space for recreational activities. This area shall allow at least thirty-five (35) square feet per prisoner in an area with a minimum of 385 square feet. At least part of this area shall [~~is to~~] be covered.

(12) Kitchen. The purpose of this area shall be to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:

(a) Compliance with the Retail Food Code, 902 KAR 45:005;

(b) Commercial-type stoves and refrigeration units;

(c) Penal-type doors and windows; and

(d) Walls, floors, and decks constructed of fire-rated masonry, concrete or steel construction.

(13) Control room. The purpose of this area shall be to control all movement of prisoners within the jail and traffic in and out of the security area. Also, this area shall be the hub for operations within the jail. Design features shall include:

(a) Doors and windows shall be of penal-type;

(b) Walls, floors, and deck shall be approved masonry, concrete or steel construction;

(c) Audio and video monitors shall be located in this area;

(d) Gauges, indicators, and alarms shall be located in this area;

(e) Central control panels shall be located in this area; and

(f) This area shall permit visual observation of all corridors, entrances, and exits under its supervision.

(14) If jail personnel are [~~staff is~~] not within normal hearing distance of prisoners, an audio communication system shall be installed to allow jail personnel [~~staff~~] to communicate with prisoners.

(15) A panic button, jail personnel [~~staff~~] call station or portable communication device shall be installed or available in corridors and jail personnel [staff] observation areas, which shall sound an alarm in the control center in an emergency situation.

(16) Confinement areas. The purpose of these areas shall be to provide suitable living conditions for all types of prisoners lodged in the jail.

(a) Design features for all living areas shall include:

1. Sufficient natural or artificial light to provide twenty (20) foot-candles with a nightlight capable of providing five (5) foot-candles of light;

2. Ventilation to meet air exchange as required in the Kentucky Jail Construction and Renovation Standards;

3. Temperature ranges within comfort zones (sixty-five (65) degrees Fahrenheit to eighty-five (85) degrees Fahrenheit);

4. Approved masonry, concrete, or steel construction;

5. Penal-type furnishings and equipment that are permanently attached;

6. Floor drains that service each living area;

7. An approved securable food pass where appropriate and approved by the division [~~Kentucky DOC~~] jail consultants;

8. Electrical outlets that if provided, are ground-faulted or have ground-fault circuit breakers; and

9. Penal-type receptacle and switch plate covers.

(b) All cells and housing areas shall meet the following design requirements:

1. Prisoner living areas shall be equipped with the security hardware to meet the security requirements of the prisoners housed in the area. Depending on the size of the jail, at least one (1) living area shall be designed at high security and be equipped with a safety vestibule to enter the living area.

2. Depending on the size of the jail, at least one (1) male, one (1) female, and one (1) medical isolation cell shall be provided.

3. All cells shall open into a dayroom and a cell shall not be less than seventy (70) square feet. A cell shall not have more than two (2) penal-type bunks. If two (2) persons are housed in a cell, they shall not be detained in the cells for longer periods than twelve (12) hours, except in emergency situations.

4. If the vestibule is used at a cell area, at least the inner door shall be remotely operated.

5. Each cell shall contain:

a. A penal-type commode, lavatory and drinking fountain, penal-type bunks secured to the floor or wall, penal-type table with two (2) seats, and penal-type storage area for personal property; and

b. A penal-type light fixture with controls inaccessible to prisoners unless it has staff override.

6. The jail shall provide living space for low security prisoners including work release and community service workers. This area shall be either cells opening into a dayroom or a combination of this and multiple-occupancy dorms. If dorms are used, they shall include:

a. Forty (40) feet per prisoner;

b. One (1) commode, one (1) lavatory, and one (1) drinking fountain per ten (10) prisoners, but one (1) urinal may be substituted for each commode in male areas so long as the commodes shall not be reduced to less than one-half (1/2) the number required;

c. One (1) shower per twenty (20) prisoners;

d. Sufficient tables and benches to handle the number of prisoners housed in the dorm;

e. One (1) penal-type storage area for personal property per prisoner; and

f. One (1) penal-type bunk per prisoner;

7. Jails may assign conditional housing arrangements relating to overcrowding if they meet the minimum square footage allowable for the area, and have in place an Objective Classification System approved by the department relating to the management of the inmate population. The conditional housing arrangement assignment shall be limited to a maximum of seven (7) days. If at any time during the seven (7) days the population drops below the maximum allowable number, the seven (7) day timeframe shall restart. The cycle of assigning conditional housing arrangements shall not exceed a continuous period of more than four (4) consecutive weeks within a sixty (60) day time period without being found in violation. This shall apply to all secure and nonsecure areas where a maximum number of inmates have been predetermined to be in the area.

8.[~~7.~~] Each dayroom area shall contain:

a. Thirty-five (35) square feet per prisoner; and

b. One (1) commode per ten (10) prisoners, but one (1) urinal may be substituted for each commode in male areas so long as the commodes shall not be reduced to less than one-half (1/2) the number required;

c. One (1) lavatory per ten (10) prisoners;

d. One (1) drinking fountain per twenty (20) prisoners;

e. One (1) shower per twenty (20) prisoners; and

f. Tables and benches sufficient to handle the rated capacity with space twenty-four (24) inches wide and twelve (12) inches deep per prisoner.

(17) Direct supervision areas. The purpose of a direct supervision area shall be to provide suitable living conditions for prisoners who are located in the jail whose behavior indicates their ability to function in a less secure setting under the direct supervision of jail personnel [~~staff~~]. Jails that elect to use the direct supervision concept shall have a sufficient number of secure cell or dormitories, as approved by the Department [~~of Corrections~~], in order to separate prisoners who display negative behavior in direct supervision areas. All direct supervision areas shall have a secure perimeter. Direct supervision area design features shall include:

(a) Sufficient natural or artificial light to provide twenty (20)

foot-candles with a nightlight capable of providing five (5) foot-candles of light;

(b) Ventilation to meet air exchange as required in the Kentucky Jail Construction and Renovation Standards;

(c) Temperature ranges within comfort zones (sixty-five (65) degrees Fahrenheit to eighty-five (85) degrees Fahrenheit;

(d) Approved masonry or concrete construction;

(e) Penal- or commercial-type furnishings and equipment;

(f) Electrical outlets that are ground-faulted or have ground-fault circuit breakers;

(g) Dormitories that provide not less than forty (40) square feet per person and do not exceed seventy (70) persons;

(h) One (1) commode, one (1) lavatory, and one (1) drinking fountain per ten (10) prisoners, but one (1) urinal may be substituted for each commode in male areas so long as the commodes shall not be reduced to less than one-half (1/2) the number required;

(i) One (1) shower per twenty (20) prisoners;

(j) Sufficient tables and chairs to handle the number of prisoners in the dorm;

(k) One (1) storage area for personal property per prisoner;

(l) A phone system available for use by prisoners; and

(m) Compliance with all other full-service requirements as outlined in 501 KAR Chapter 3.

Section 10. In any new construction or expansion of the local correctional facility, there shall not be a 911 Control Center housed within the secure perimeter of the local correctional facility. Any increase of square-footage of an existing 911 Center shall require the removal of the Center's location outside the secure perimeter of the local correctional facility.

Section 11. Incorporation by Reference. (1) "Kentucky Department of Corrections Jail Construction, Expansion and Renovation Guidelines", 3-11, is incorporated by reference.[~~Section 7. Incorporation by Reference. (1) "Kentucky Department of Corrections Jail Construction and Renovation Standards," 10-07, is incorporated by reference.~~]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, Division of Local Facilities, 2439 Lawrenceburg Road, P.O. 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA THOMSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation established standards and procedures to be followed in the design and construction or renovation of full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum construction and renovation requirements for full-service jails as required by KRS 441.055(1)(a)7.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum construction and renovation requirements for full-service jails.

(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: In any new construction or renovation that will increase the bed capacity of the jail, there shall not be a 911 Control Center housed within the secure perimeter of the jail. Any increase of square-footage of an existing 911 Center shall require the removal of the Center's location outside the secure perimeter of the jail. Requirements for conditional housing to manage periodic overcrowding were added and the square feet for the medical area was increased. Language changes were made to clarify the physical plant standards and the use of the physical plant guidelines in new and existing local correctional facilities. The title of the material incorporated by reference was changed. Revisions were made to account for statutory changes made in HB 463. The unit of local government is required to submit an application to the Department of Corrections (DOC) and the Local Correctional Facilities Construction Authority to demonstrate the need for any new construction or expansion prior to beginning construction. The regulation sets out the information and documents required for the application to the DOC. A separate approval process for renovations was established. Definitions were added and other changes made to align the review process and plan development process with the requirements in the statutory revisions.

(b) The necessity of the amendment to this administrative regulation: To update the minimum construction and renovation standards.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments adopt the Jail Standard Commission recommendations as required by KRS 532.100.

(d) How the amendment will assist in the effective administration of the statutes: It provides updated minimum construction and renovation standards for full-service jails.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: For news jails or jails that are being renovated, the updated minimum construction standards will have to be followed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): More accessible facilities and

facilities that are better suited to house inmates.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees established or increased.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.) No. These standards apply equally to all new jails and jails that are being renovated.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2.What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None for the state. For the jails, for fiscal year 2011, the department will pay them approximately $88 million for the housing, transportation, and medical care of the state inmates.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Approximately the same as (a).

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of the state inmates. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:060. Security; control.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 441.055(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes security procedures to be followed in full-service jails.

Section 1. Policy and Procedure. (1) The[~~Each~~] jailer shall develop a written policy and procedure governing the security aspects of the jail's operation.

(2) If requested in writing, the[~~The~~] department shall provide technical assistance to the jailer in formulating written policy and procedure.

(3) The policies and procedures shall include:

(a) Prisoner rules[~~and administrative regulations~~];

(b) Staffing;

(c) Searches of prisoner and of secure areas;

(d) Visitation;

(e) Key and weapon control;

(f) Prisoner head counts;

(g) Surveillance checks;

(h) Emergency situations;

(i) Jail schedule; and

(j) Administering medication.

Section 2. Prisoner Supervision. (1) Jail personnel shall conduct and document direct in-person surveillance of each prisoner on an irregular schedule, at least every sixty (60) minutes.

(2) Jail personnel shall conduct and document direct in-person surveillance every twenty (20) minutes on the following classes of prisoners:

(a) Suicidal;[~~(b) Assaultive, unless housed in a single cell;~~

~~(c) Escape risk, unless housed in a single cell;~~]

(b)[~~(d)~~] Mentally or emotionally disturbed, if housed in a single cell;[~~(e) In segregation, unless housed in a single cell;~~

(c)[~~(f)~~] In detox cell;

(d)[~~(g)~~] Juveniles, if housed in the jail; and

(e)[~~(h)~~] Mental inquest detainees.

(3) If available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sally ports, perimeter security, points of egress, and common and support areas.

(4) There shall be at least three (3) documented prisoner counts every twenty-four (24) hours during which each prisoner's physical presence, by show of skin or by movement, shall be observed. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for weekly inspection, for contraband and physical security, of each area accessible to a prisoner.

(a) Isolated security spot checks for contraband shall be conducted daily.

(b) The prisoner rules, as specified in Section 1(3)(a) of this administrative regulation, shall contain a clear definition of each item permitted in the jail. All other items shall be considered contraband.

(c) There shall be a written procedure for reporting security irregularities.

(2) A weapon, ammunition, chemical agent, related security equipment, or object which may be used as a weapon shall not be permitted in the security area unless authorized by the jailer. Firearms shall not be permitted in the security area[~~perimeter~~] unless authorized by the jailer, under emergency circumstances.

(3) If a weapon, ammunition, chemical agent, or related security equipment is not being carried or used, as authorized by the jailer, it shall be stored in an arsenal, vault, or other secure room under lock.

(a) The weapons storage area shall be inaccessible to unauthorized persons.

(b) There shall be a written procedure for issuing and accounting for all weapons.

(4) Security devices and safety equipment shall be inspected monthly to ensure they are maintained in proper working order.

(5) Tools and toxic, corrosive, or flammable substances, and other potentially dangerous supplies and equipment shall be stored in a secure, locked area located outside the security perimeter of the confinement area.

(6) A prisoner shall use hazardous tools, supplies, or equipment only under the direct supervision of jail personnel.

(7) A prisoner:

(a) May be assigned the responsibility of providing prisoner services, including providing meals, under the direct supervision of

jail personnel[~~staff~~]; and

(b) Shall not be assigned to a position of authority over another prisoner.

(8) A prisoner shall not be permitted to perform or assist in a security duty.

(9) A jail with a work release or community service program shall establish special control procedures to minimize contact between a prisoner with work release privileges and another prisoner.

(10) A prisoner shall be searched, in accordance with the guidelines established in 501 KAR 3:120, if entering or leaving the security perimeter.

(11) Written procedures shall be developed for transporting a prisoner outside the jail and shall identify training required before jail personnel[~~staff~~] are permitted to transport any prisoner.

(12) Each jailer shall develop written policies and procedures governing the use of physical restraints.

(13) A prisoner placed in physical restraints shall be constantly monitored.

(14) The jail shall have key-control procedures which shall include:

(a) A key control center that is secure and inaccessible to an unauthorized person at all times;

(b) An accounting procedure for issuing and returning keys;

(c) A procedure for immediate reporting and repairing of a broken or malfunctioning key or lock;

(d) A set of duplicate keys to be maintained in a separate, secure place;

(e) A prisoner shall not be permitted to handle a key used to operate a jail security lock;

(f) A key operating a lock to an outside door or gate shall not be permitted in the security[~~confinement~~] area;

(g) An emergency key or any key to a critical security area shall be issued in accordance with written procedures established by the jailer;

(h) Precautions similar to those outlined above shall be taken to insure the security of nonkey operated locking devices including electrical switches or levers;

(i) A lock to an outside exit shall be keyed differently from an interior lock; and

(j) The lock to the control room shall be keyed differently from all other locks.

(15) Trustees.

(a) A trustee shall not have access to, or control of, a weapon.

(b) An unsupervised trustee shall not be permitted in either a program, support, or housing area with a prisoner of the opposite sex.

(c) A trustee shall not be permitted in either a program, support, or housing area with a juvenile inmate.

Section 4. Daily Jail Log; Special Reports. A daily jail log shall be kept current and shall reflect significant occurrences within the jail. Special reports shall include:

(1) Use of force;

(2) Disciplinary action;

(3) Medical or mental health treatment;

(4) Feeding schedule and menus;

(5) Extraordinary occurrences.

(a) Fire;

(b) Assault;

(c) Suicide or attempted suicide; and

(d) Escape or attempted escape;

(6) Inmate vandalism;

(a) Destruction of jail property; and

(b) Flooding of plumbing fixtures;

(7) Jail personnel[~~Staff~~] roster for each shift; and

(8) Visitor's log.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner

RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10:00 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to: CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, Phone (502) 564-3279, Fax (502) 564-6686**.**

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes security procedures to be followed in full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum security procedures as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum security procedures to be followed in full-service jails.

(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 changes policy regarding the monitoring of certain categories of inmates.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It increases the safety and security of inmates.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The jails may review and modify their policies and procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Increased flexibility for jails.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:070. Safety; emergency procedures.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes safety and emergency procedures to be followed in local full-service jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written policy and procedure that shall specify fire prevention administrative regulations and practices to ensure the safety of prisoners, visitors, and jail employees [~~staff~~]. The policy shall include:

(a) Provision for a fire emergency planning session for jail employees [~~staff~~] at least quarterly;

(b) Written documentation of the fire planning session including evacuation, fire drills, and other procedures covered during the session;

(c) A fire safety inspection by the department at least once a year;

(d) Inspection and testing of fire protection equipment by a qualified person at least annually with visual inspections by jail employees [~~staff~~] monthly;

(e) All county jails that [~~elect to~~] house state prisoners shall be tobacco free [~~deemed nonsmoking~~] facilities; and.

(f) An evacuation plan coordinated with local fire officials and approved by the department [~~of Corrections~~].

(2) Each jail shall have written policy and procedures for emergency situations including:

(a) Escape;
(b) Hostage taking;
(c) Riot;
(d) Food poisoning;
(e) Civil disturbance in the community;
(f) Natural disaster;
(g) Suicide;
(h) Other death and disorder; and
(i) Mass evacuation disaster plan.

Section 2. Physical Plant. (1) Each jail shall comply with the Kentucky Building Code, incorporated by reference in 815 KAR 7:120. An existing jail for which approval has been granted may continue without change, except if a significant alteration, addition or change of occupancy occurs.

(2) Each exit shall be:

(a) Distinctly and permanently marked;
(b) Visible at all times;
(c) Kept clear; and
(d) Maintained in usable condition.

(3) Each jail shall have equipment necessary to maintain essential lights, power, HVAC and communications in an emergency situation.

(4) In each area where a prisoner may be confined, there shall be an emergency smoke control system activated by smoke detectors and operated by emergency power. Inspection and testing of the smoke control system shall be conducted by a qualified person at least annually.

(5) Each jail shall have a [~~an approved~~] fire alarm and smoke detection system.

(6) Each direct supervision area shall have a [~~an approved~~] fire-suppression system.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is

made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business July 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686**.**

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: It establishes safety and emergency procedures for full-service jails that house state inmates.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum safety standards for full-service jails as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum safety standards for full-service jails as required by KRS 441.055.

(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 changes the facility from non-smoking to tobacco free and requires emergency equipment to maintain essential HVAC. It standardizes and clarifies terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jail Standard Commission recommendations as required by KRS 532.100.

(d) How the amendment will assist in the effective administration of the statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jails will have to comply with tobacco free facilities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An additional cost may occur if the facility is not already prepared to maintain essential HVAC in an emergency.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Being a tobacco free facility decreases health and maintenance costs at the jail. Advanced planning assists when an emergency arises.

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

(a) Initially: An additional cost may occur if additional equipment is needed to maintain essential HVAC in an emergency. The cost will depend on the additional equipment needed.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted 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: Funding may need to increase depending on whether additional equipment is needed for the jail or it may still be covered by the funds paid by the Department. See (4)(b).

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:080. Sanitation; hygiene.

RELATES TO: KRS 441.055

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation sets forth procedures to provide proper sanitation and hygiene in full-service jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.

(2) The jail shall provide for both solid and liquid waste disposal.

(3) The jailer shall have a written preventative maintenance plan that includes but is not limited to:

(a) A cleaning schedule for various locations and items in the jail;

(b) A schedule for inspections by the jailer;

(c) A schedule for trash and garbage removal; and

(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.

(4) The jail shall have fresh air circulating within prisoner living and activity areas.

(5) The jail shall furnish clean sanitized bedding to prisoners except in holding areas and unless it is determined to be detrimental to a particular prisoner. Issuance of bedding in detoxification is optional. Bedding shall include:

(a) One (1) mattress;

(b) One (1) blanket if conditions require;

(c) Two (2) sheets;

(d) One (1) pillow, if not part of the mattress; and

(e) One (1) pillowcase, if applicable.

(6) Prisoner bedding shall be cleaned on a regular basis according to the following schedule:

(a) Sheets, pillowcases, and mattress cover shall be cleaned at least once per week and cleaned prior to reissue to next prisoner;

(b) Blankets shall be cleaned upon reissue or quarterly, whichever is sooner; and

(c) Mattresses and pillows shall be cleaned quarterly and cleaned prior to reissue to next prisoner.

(7) Each prisoner shall be issued a clean jail uniform and towel upon admission to a prisoner living area. Jail uniforms and towels shall be laundered at least twice weekly and laundered prior to reissue to the next prisoner. Prisoners shall not be required to be without a clean uniform or towel while laundry is being processed. [~~Towels shall be laundered weekly or more as needed and cleaned prior to reissue to next prisoner.~~]

(8) All floors, toilets, and sinks in the jail shall be cleaned [~~washed~~] daily or more often as necessary.

(9) All showers shall be cleaned on at least a weekly basis.

(10) (a) All prisoners assigned to prisoner living areas shall be issued or permitted to obtain the following hygienic items:

1. Soap;
2. Toothbrush;
3. Toothpaste;
4. Toilet paper; and
5. Female sanitary supplies (if applicable).

(b) Indigent prisoners shall be furnished these items by the jail.

(11) All prisoners shall be permitted to shave a minimum of two (2) [~~three (3)~~] times per week. Communal razors shall not be used.

(12) Hair cutting services or sanitized hair cutting equipment shall be available to all prisoners.

(13) All prisoners shall be provided shower facilities within twenty-four (24) hours of admission. Prisoners shall be permitted to shower daily.

(14) All prisoners in the jail shall be provided with hot and cold running water in showers and lavatories.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686**.**

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: It establishes procedures for proper sanitation and hygiene in full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum sanitation and hygiene requirements for full-service jails as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum sanitation and hygiene requirements for full-service jails.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It requires towels and uniforms to be laundered twice a week and prisoners cannot be without towels or uniforms during the laundering process. It reduces the minimum times allowed to shave per week to two.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It ensures appropriate sanitation and hygiene in full-service jails.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jails will have to distribute jail uniforms and towels and have them laundered twice weekly.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There may be a small increase in cost for laundry if the center is not already laundering twice a week and require the purchase of additional bedding and toweling if center stock if not sufficient to prevent a prisoner from being without bedding and toweling when laundry is being done.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): More sanitary conditions for inmates at full-service jails.

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

(a) Initially: Any additional cost will depend on whether the center is already laundering twice a week and whether it needs to increase its bedding and toweling stock.

(b) On a continuing basis: Normal replacement costs for worn out bedding and toweling and possibly detergent costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: An increase in funding would depend on the factors discussed in (5)(a) & (b) and should be covered by the money paid to the jail for incarcerating state inmates.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state prisoners.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:090. Medical services.

RELATES TO: KRS 441.045, 441.047, 441.055, 441.560

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055, 441.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum health standards for jails that house state prisoners. This administrative regulation sets forth procedures for the proper delivery of medical services in full-service jails.

Section 1. Medical Services. (1) The jail's medical services shall be provided by contracting with a health care provider licensed in Kentucky.

(2) The medical authority shall be a licensed practical nurse (LPN), a higher level of licensed nurse, a licensed medical doctor, or licensed doctor of osteopathy. Tele-medicine technology may be used.

(3)[~~(2)~~] The health care [~~medical~~] staff shall not be restricted by the jailer in the performance of their duties except to adhere to the jail's security requirements.

(4)[~~(3)~~] All health care staff working in the jail shall comply with state licensure and certificate requirements commensurate with health care personnel working elsewhere in the community. Copies of licenses and certificates for health care staff employed by the jail shall be maintained on file within the jail. (5)[~~(4)~~] A daily medical log shall be maintained documenting specific medical treatment rendered in the jail. This log shall be kept current to the preceding hour.

(6)[~~(5)~~] Prisoners shall not perform any medical functions within the jail.

(7)[~~(6)~~]Prisoners shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the jail.

(8)[~~(7)~~] All medical procedures shall be performed according to orders issued by the responsible medical authority. All medical procedures that require hospital care shall use the Kentucky Correctional Health Care Services Network, or other contracted health care network [~~provider~~].

(9)[~~(8)~~] Medical screening shall be performed by the receiving jail personnel [~~officer~~] on all prisoners upon their admission to the jail and before their placement in prisoner living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems;

(b) Medications taken and special health requirements;

(c) Screening of other health problems designated by the medical authority;

(d) Behavioral observation, state of consciousness and mental status;

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;

(f) Condition of skin and body orifices, including rashes and infestations; and

(g) Disposition and referral of prisoners to qualified medical personnel on an emergency basis.

(10)[~~(9)~~] Sick call conducted by the medical authority shall be available to each prisoner as follows:

(a) Facilities with [~~fewer than~~] 100 prisoners or less shall hold sick call one (1) day [~~two (2) days~~] per week, at a minimum;

(b) Facilities with 101 to 200 [~~100 to 300~~] prisoners shall hold sick call two (2) [~~three (3)~~] days per week, at a minimum; [~~and~~]

(c) Facilities with 201 to 300 [~~more than 300~~] prisoners shall hold sick call three (3) [~~five (5)~~] days per week, at a minimum; and[~~.~~]

(d) Facilities with more than 300 prisoners shall hold sick call four (4) days per week, at a minimum.

(11) Jailers shall be required to report suicides or attempted suicides that constitute a serious health situation to the department within twenty-four (24) hours.

(12) Each jail shall have a written policy and procedure outlining jail personnel response to detainees who are at risk for suicide or have attempted or completed suicide.

[~~(10) Deputy jailers and correctional officers shall have current training in standard first aid equivalent to that defined by the American Red Cross.~~

~~(11) Deputy jailers and correctional officers member per shift shall be trained and certified to perform approved CPR (Cardiopulmonary Resuscitation).~~]

(13)[~~(12)~~] Emergency medical, vision, and dental care shall be available to all prisoners commensurate with the level of care available to the community.

(14)[~~(13)~~] Medical research shall not be permitted on any pris-

oner in the jail.

(15)[~~(14)~~] Access to the prisoner's medical file shall be controlled by the medical authority and the jailer. [~~The physician-patient privilege shall apply to the medical record.~~] The medical record shall be separate from custody and other administrative records of the jail.

(16)[~~(15)~~] All examinations, treatments, and procedures affected by informed consent standards in the community shall be observed for prisoner care.

(17)[~~(16)~~] The jailer or designee shall notify the coroner, if a prisoner dies while in the jail's custody, to allow for a postmortem examination pursuant to KRS 72.025. [~~In accordance with KRS 72.025, a postmortem examination shall be conducted on all prisoners who die while in the custody of the jailer.~~]

(18)[~~(17)~~] The jailer shall have written delousing procedures. [~~(18) All jail staff or contract staff who administer medications to prisoners shall be trained in the proper procedures as outlined in the Policy and Procedures Manual.~~]

(19) The jail shall have first aid kits available at all times.

(20) A prisoner who has been prescribed treatment by a recognized medical authority and cannot receive that treatment in the jail shall be moved to another confinement facility that can provide the treatment or may be moved to a hospital.

(21) If emergency care is needed, it shall be provided.

Section 2. Medical Transfers pursuant to KRS 441.560. (1) A jailer may request that a prisoner be transferred to the department for necessary medical treatment and care if the prisoner:

(a) Is injured;

(b) Is pregnant;

(c) Becomes sick or ill;

(d)1. Is severely and persistently mentally ill; and

2. Is presenting an imminent risk of harm to self or others; or

(e) Requires specialized medical care or long-term medical care which is not available at the local jail.

(2) The transfer request shall be submitted to the Classification Branch [~~Commissioner~~] in writing and shall contain the following information:

(a) Prisoner's name;

(b) Prisoner's Social Security number;

(c) County where currently housed;

(d) Inmate number;

(e) Pending charge or conviction and whether felony or misdemeanor;

(f) Estimated sentence or time to serve;

(g) Whether the prisoner has insurance or not;

(h) Whether the prisoner is indigent or not;

(i) Justification for medical transfer;

(k) Whether the care is necessary or not;

(l) Any conflict reports; and

(m) Relevant attachments such as:

1. Copy of prisoner's insurance card;
2. Doctor's report;
3. Incident report;
4. Citation;
5. Booking information;
6. Preexisting medical records; or
7. Current medication.

(3) If a prisoner is approved for transfer to the department, pursuant to KRS 441.560 [~~department as a catastrophic medical prisoner~~], the jail shall provide the following, unless already provided with the transfer request:

(a) All medical information;

(b) Current medication in proper container;

(c) Booking information;

(d) Incident reports;

(e) Current citation;

(f) Classification information;

(g) Conflict reports;

(h) Any additional pertinent information; and

(i) Custody receipt.

(4) If a prisoner is approved for transfer to the department, pursuant to KRS 441.560[~~department as a catastrophic medical prisoner~~], the prisoner shall be transported by the department.

Section 3. Inmate Medications. When a prisoner is transferred from one facility to another, all pertinent medical information, including a minimum three (3) day supply of prescription medication, a prescription for necessary medications that will allow the medication to be filled at least once, and a copy of the most recent Medical Administration Record (MAR), shall be sent to the receiving facility. If prescribed medication is purchased for a prisoner, by a facility, then upon release to the community from the facility, a minimum supply of three (3) days medication and a prescription for necessary medications that will allow the medication to be filled at least once shall be provided to the prisoner.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686**.**

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: It establishes minimum requirements for the provision of medical services in full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055 and 441.560.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum health standards for full-service jails as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum health standards for full-service jails.

(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 clarifies the definition for medical authority. It decreases the amount of sick calls based on the number of inmates. It removes training standards that are being moved to a new regulation in the Chapter and requires the facility to have a written policy and procedure regarding inmate suicides. It also establishes new procedure regarding inmate's prescription medicine.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Re-

view Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It provides improved minimum standards for the provision of medical services in full-service jails

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jailers will have to ensure that their medical authority meets the new minimum licensure requirements and that the required supply of medication is provided when inmates leave the facility.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost to the department. The jails who have not been providing a three-day supply of medication to inmates who are transferred or released will incur the cost by providing this medication.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Prisoners will receive necessary medical care in an appropriate setting.

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

(a) Initially: Sick call costs for some jails may decrease. The jails who have not been providing a three-day supply of medication to inmates who are transferred or released will incur the cost by providing this medication. The cost will vary depending on the medication.

(b) On a continuing basis: Approximately the same as (a).

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: An increase in funding would depend on the factors discussed in (5)(a) & (b) and may be covered by the money paid to the jail for incarcerating state inmates.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055, 441.560.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:100. Food Services.

RELATES TO: KRS 196.035,197.020, 217.280-217.390, 441.055

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum health standards for jails that house state prisoners [~~and for jails which do not elect to hold state prisoners~~]. This administrative regulation sets forth procedures for proper food services for jails that house state prisoners[~~in both types of jails~~].

Section 1. Procedures. (1) The jail shall comply with KRS 217.280 through 217.390 and 902 KAR 45:005.

(2) The jailer shall provide adult prisoners with a nutritionally adequate diet containing at least 2,400 calories per day. If prisoners are housed in the diversion holding area during normal meal times, they shall be fed. Meals may be either hot or cold.

(3) Prisoners shall receive three (3) meals per day, one (1) of which shall be hot. More than fourteen (14) hours shall not elapse between any two (2) meals. The jailer may elect to provide only two (2) meals on Saturdays, Sundays and holidays, provided that both meals still meet the minimum 2,400 calories per day. If the jailer elects to serve only two (2) meals, the time elapsing between the meals requirement shall not apply.

(4) The jailer shall provide for religious diets in accordance with 501 KAR 3:130 after review and approval of religious authority.

(5) The jailer shall provide for medical diets if prescribed by a medical authority.

(6) The jailer shall maintain accurate records of all meals served.

(7) Food shall not be used for disciplinary [~~or reward~~] purposes.

(8) A nutritionist or dietician shall approve the nutritional value of the jail menu on an annual basis.

(9) Jail personnel [~~A staff member~~] shall directly supervise all food prepared within the jail.

(10) All food shall be served under the direct supervision of jail personnel [~~a staff member~~].

(11) The jail shall have sufficient cold and dry food storage facilities.

(12) The jailer or his designee shall inspect the food service area daily.

(13) Canteen food items purchased by prisoners may be stored or prepared in amounts that do not pose a threat to the health or security of the institution.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for proper food services in full-service jails house state prisoners.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum standards for food services in local jails as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards for food services in local jails.

(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 allows the jailer to serve two (2) meals on Saturdays, Sundays and holidays, as long as the meals meet the minimum 2400 calorie per day. It standardizes terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It sets the minimum standards for food service in local jails.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 8 life-safety jails and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A jailer may serve only two (2) meals on Saturdays, Sundays and holidays, as long as the meals meet the minimum 2400 calories per day.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Jailers are allowed the option to serve two (2) meals on Saturdays, Sundays and holidays and prisoners do not have to awake as early to obtain the first meal.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and local jails.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Others:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:110. Classification.

RELATES TO: KRS 441.045, 441.055
STATUTORY AUTHORITY: KRS 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes procedures for the classification of prisoners in full-service jails.

Section 1. Procedure. (1) Each jail shall develop a prisoner classification system, which shall be included in the facility's written policy and procedure manual.

(2) The prisoner classification system shall provide for separation of the following categories of prisoners:

(a) Male and female prisoners, except in diversion/holding;

(b) Mental inquest detainee and other prisoners;

(c) Mentally ill or mentally retarded prisoner and other prisoners;

(d) Chemically incapacitated prisoner and other prisoners;

(e) A prisoner with a tendency to harm others, be harmed by others, or requiring administrative segregation and other prisoners;

(f) A prisoner with a communicable disease and other prisoners.

(3) The criteria to be used in the classification of other prisoner categories shall be as follows:

(a) Seriousness of current offense;

(b) Institutional behavioral history;

(c) Special needs;

(d) Known criminal history; [~~Sentenced or unsentenced status. (b) Felony or misdemeanor charge.~~

~~(c) Noncriminal and criminal status including a traffic violator, nonsupport case or civil contempt.~~

~~(d) Community custody prisoner including work release, and education release, weekender.~~]

(e) Trustees. The jailer or his designee shall base selection of prisoners for trustee status on the following criteria:

1. The nature of the prisoner's offense and sentence;

2. Previous escape attempts; and

3. The prisoner's "day-to-day" behavior.

(4) A prisoner's classification shall be reevaluated if the prisoner's status changes based on factors to include the following: [~~changed to reflect changes in his status, including the following~~]:

(a) Results of a court [~~Court~~] appearance by the prisoner, such as being sentenced;

(b) Disciplinary hearing and action; and

(c) Reevaluation of the prisoner's physical, emotional, or mental condition.

(5) The prisoner classification system shall prohibit discrimination or segregation based upon race, color, creed, or national origin.

Section 2. (1) Each detention facility with direct supervision areas shall, and other detention facilities may, develop a system of prisoner classification to assess prisoners for the purpose of:

(a) Protecting public or institutional safety;

(b) Providing an acceptable level of health care services; and

(c) Considering the opportunity to provide programs intended to reduce the likelihood of reincarceration.

(2) The classification system shall provide for the assessment of prisoner risk and need, considering elements including:

(a) Need for medical care;

(b) Need for mental health care;

(c) Propensity for suicidal behavior;

(d) Potential conflict arising from contact with another individual or group within the institution;

(e) Potential threat of escape;

(f) Potential threat to public safety if placed in a community release program;

(g) Potential risk to staff or another prisoner;

(h) Record of previous institutional behavior; and

(i) Assessment for participation in educational, vocational, rehabilitative, or work-related programming.

(3) Each classification system shall consider the development of the following components:

(a) An assessment of a prisoner upon intake to the facility to determine:

1. Legal custody;

2. Medical fitness for acceptance; and

3. Information asked of the arresting or transporting agent concerning the prisoner's potential risk and needs.

(b) A screening component to assess, as soon as practical after acceptance into the facility, the prisoner's risk and need for the purpose of determining appropriate housing, supervision requirements and the need for providing immediate health care, or other services.

(c) A primary classification of a prisoner shall be accomplished as soon as practical after his initial court appearance, or prior to a permanent housing placement within the institutional population[~~. The purpose of primary classification is~~] to address the long term housing, supervision and health care needs of the prisoner. Primary classification may also address the appropriateness of program placement in consideration of the needs of the prisoner and the potential risks to the community and the institution associated with the placement.

(4) A reclassification component shall be developed that reassesses the prisoner's risk, need and housing assignment and supervision based upon either time, event, change of status or request.

(5) An instrument of assessment shall be developed for each of the classification components using sources including charged offense, criminal history of the prisoner, available institutional behavior history, interview and observation of the prisoner or other information sources available to the institution.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administra-

tive regulation establishes procedures for the classification of prisoners in full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes procedures for the classification of prisoners in full-service jails.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It will establish the criteria for the classification of prisoners in full-service jails

(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 updates the criteria for the classification of prisoners and clarifies language.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It clarifies how to classify the inmates.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jailers will have to apply the revised criteria when classifying an inmate.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Clarification on how to classify the prisoners.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Others:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:120. Admission; searches and release.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes admission, search, and release procedures for full-service jails.

Section 1. Policy and Procedure. Each jail shall develop written admission, orientation, and release procedures to be included in the jail's policy and procedure manual.

Section 2. Admission. (1) A person in need of emergency medical attention shall not be admitted to the jail until a medical examination is conducted. A Denial of Admission document shall be completed, listing the reason for denial. The document shall be signed by jail personnel on duty.

(2) Jail personnel shall assure that each prisoner is committed under proper legal authority by a duly authorized officer.

(3) An intake form shall be completed on every new admission and shall include the following:

(a) Time and date of commitment;

(b) Name, alias, nickname;

(c) Official charge, cite five (5) digit UOR number;

(d) Authority ordering commitment;

(e) Unit of government to be billed;

(f) Signature and title of arresting or committing officer;

(g) Date of birth;

(h) Race;

(i) Sex;

(j) Height and weight;

(k) Current or last known address;

(l) Telephone number;

(m) Marital status;

(n) Spouse or next of kin;

(o) Emergency contact including name, relation, address, telephone number;

(p) Employer, place of employment, telephone number;

(q) Social Security number;

(r) Health status including current medications, known allergies, diet or other special medical needs;

[~~(s) Blood type, if known;~~]

(s)[~~(t)~~] The name of any known person in the jail who might be a threat to the prisoner; and

(t)[~~(u)~~] Mental health history including past hospitalizations, comprehensive care treatment, current treatment, and medication.

Section 3. Searches. (1) Jail personnel shall conduct a search of each prisoner and his possessions.

(a) Each prisoner shall be searched for contraband in a manner jail personnel [~~staff~~] reasonably determine is necessary to protect the safety of fellow prisoners, jail personnel [~~staff~~], and institutional security.

(b) A prisoner may be strip searched only on reasonable suspicion that is based upon the existence of objective information that may predict the likelihood of the presence of a weapon, drugs, or other item of contraband concealed on a particular prisoner. Reasonable suspicion may [~~shall~~] be based upon one (1) or more of the following examples:

1. A current felony offense, fugitive status or past felony conviction, involving [~~felony~~] violence or, drug charges[~~, or fugitive status~~];[~~2. A criminal history of offenses involving the use of a weapon or the possession of contraband;~~]

2[~~3~~]. Institutional behavior, reliable information, or history that indicates possession or manufacturing of a dangerous contraband, the refusal to submit to a clothed pat down search, or a clothed pat down search reveals the possession of a dangerous contraband;

3[~~4~~]. Contact with the public by a contact visit, court appearance that takes place in an area to which the public may have access, or after transport from or through an area to which the public may have access; or

4[~~5~~]. The court has ordered commitment to custody after arraignment, conviction, sentencing, or other court appearance, and the prisoner was not in custody prior to the court appearance.

(c) The jailer shall require that a strip search or body cavity search shall be documented. Documentation shall include:

1. Basis for reasonable suspicion to conduct a search;
2. Date and time of search;
3. Name of prisoner;
4. Name of person conducting search;
5. Type of search; and
6. Result of search.

(d) A strip search shall be conducted by jail personnel [~~a staff person~~] of the same sex as the prisoner and in a private area.

(e) Probing of body cavities shall:

1. Not be done unless there is reasonable suspicion to believe that the prisoner is carrying contraband in a body cavity; and

2. Be conducted in a private location, under sanitary conditions, by a licensed medical professional, acting within his statutory scope of practice.

(2) Each jail shall develop written policies and procedures, specifying the personal property that a prisoner may retain in his possession.

(a) Cash or personal property taken from a prisoner upon admission shall be listed by complete description on a receipt form, and securely stored pending the prisoner's release. The receipt shall be signed by the receiving jail personnel [~~officer~~] and the prisoner and kept for the jail record.

(b) If the prisoner is inebriated, is a mental inquest detainee, or is mentally ill or mentally retarded, there shall be at least one (1) witness to verify the transaction in paragraph (a) of this subsection. As soon as the prisoner is able to understand and account for his actions, the prisoner may [~~shall~~] sign the receipt.

(c) Personal property released to a third party shall have the prisoner's signature of approval and the signature receipt of the third party.

(3) The jailer may establish a written policy on hair length or beards if based on actual concerns for safety, security, identification, or hygiene. A prisoner may be permitted freedom in personal grooming if not in conflict with the jail's policy. Caution shall be taken to protect prisoner rights in accordance with court decisions regarding religious practice.

Section 4. Orientation. (1) As soon after assignment as possible, an oral or written orientation shall be made available to each prisoner.

(2) The orientation shall provide the prisoner with information regarding his confinement, including the following:

(a) Information pertaining to rising and retiring, meals, mail procedures, work assignments, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the prisoner's confinement;

(b) Rules of prisoner conduct established pursuant to 501 KAR 3:060, Section 1(3);

(c) Disciplinary procedures;

(d) Information regarding work, educational and vocational training, counseling, and other social service programs; and

(e) Procedures for making a request or registering a complaint with the jail personnel [~~staff~~] or department personnel. Prisoners shall follow the grievance procedure and attach a copy of the grievance documents if requesting a review by the department [~~of Corrections~~].

Section 5. Release. (1) Written legal authorization shall be required prior to the release or removal of a prisoner from confinement.

(2) When a prisoner is released or removed for a legal purpose to the custody of another, the identity of receiving authority shall be verified.

(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the prisoner is released or removed.

(4) Prior to the release or removal of a prisoner, the receiving authority shall sign an authorized release form.

(5) Before jail personnel releases a prisoner to an out-of-state jurisdiction, jail personnel shall consult with the appropriate prosecutorial office in the county.

(6) Property, not legally confiscated or retained, receipted from the prisoner upon admission shall be returned to the prisoner at the time of release.

(7) Each prisoner shall sign a receipt for property returned at the time of release.

(8) Complaint regarding property returned shall be submitted in writing with specific details within twenty-four (24) hours from the time of release.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safe-

ty Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes admission, search, and release procedures for full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: This administrative regulation establishes minimum standards for admission, search, and release procedures for full-service jails

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It will clarify admission, search and release minimum standards for full-service jails.

(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 removes the inmate's blood type from the intake form and clarifies examples of reasonable suspicion and adds "dangerous" contraband. It standardizes terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It establishes procedures for admission, search and release.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jailers will have to apply the new procedures for admission, searches and releases.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Clarification on admission, search and release.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Others:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:130. Prison[~~Prisoner~~] programs; services.

RELATES TO: KRS 439.179, 441.055, 441.125, 532.100

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055, 532.100(4)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes procedures for prisoner programs and services in those jails.

Section 1. [~~Definitions. (1) "Chaplain" means a volunteer authorized to provide religious counsel, instruction, and advice to inmates and to provide a system of services or religious volunteers, ecclesiastical visitors, and guests for inmates.~~

~~(2) "Inmate Religious Beliefs and Practices Manual" means the U.S. Department of Justice, Federal Bureau of Prisons technical reference manual, "Inmate Religious Beliefs and Practices," dated March 27, 2002, incorporated by reference in 501 KAR 6:080.~~

~~(3) "Religious diet" means any diet deemed essential by the Inmate Religious Beliefs and Practices manual.~~

~~(4) "Religious items" means items associated with a particular religious faith which may include religious medallions, kufi cap, prayer rugs, crucifix, yarmulke, prayer beads, rosary, sacred eagle feathers, medicine bag, or Star of David.~~

~~(5) "Religious practice" means outwardly observable manifestations of religious beliefs including:~~

~~(a) Participating in congregations and meetings;~~

~~(b) Engaging in rituals and ceremonies;~~

~~(c) Praying, chanting, and singing;~~

~~(d) Wearing special items of clothing, jewelry, hairstyles, or beards;~~

~~(e) Adhering to special diets; and~~

~~(f) Participating in special activities characteristic of a particular religion or adherents of a particular religion.~~

~~Section 2.~~]Work Programs. (1) Written policy and procedure shall provide that prisoner programs and services shall be available and include social services, religious services, recreation and leisure time activities and library services.

(2) Sentenced prisoners who perform work as authorized by KRS 441.125 may receive rewards in the form of sentence reductions or other privileges, if granted by the proper authority.

(3) Written policy and procedure shall provide that unsentenced prisoners shall not be required to work except to do personal housekeeping.

Section 2[~~3.~~]. Education Programs. (1) The jail shall develop a policy and procedure that encourages the implementation of education programs in the jail. The utilization of community resources in these efforts shall also be encouraged to offset the costs of the programs.

(2) Education programs may be made available in accordance with KRS 439.179.

(3) State prisoners shall be provided the opportunity to attend adult basic education programs or to pursue a general educational development (GED) diploma.

Section 3[~~4~~]. Library Services. If resources are available in the community, library services may be made available to all prisoners.

Section 4[~~5~~]. Religious Programs. (1) Written policy and procedure shall ensure the constitutional rights of prisoners to voluntarily practice their own religious activities, subject to those limitations necessary to maintain the order and security of the jail.

(2) The jailer or designee shall ensure that an inmate has the opportunity to participate in practices of his religious faith in accordance with the Religion Reference Manual incorporated by reference in 501 KAR 6:080. For specific situations not addressed in the Religion Reference Manual, the jailer or designee may refer to department Policies and Procedures 23.1 incorporated by reference in 501 KAR 6:020. [~~Inmate Religious Beliefs and Practices Manual. These practices shall:~~

~~(a) Include religious publications, religious symbols, congregational religious services, individual and group counseling, religious study classes, and religious diets; and~~

~~(b) Be limited only by documentation showing a threat to the safety of persons involved in an activity or that the activity itself disrupts order in the institution.~~

~~(3) Each jail shall provide a chaplain or staff who plans, directs, and coordinates all aspects of the religious program including approval and training of both lay and clergy volunteers from faiths represented by the inmate population.~~

~~(4) If the chaplaincy staff or volunteers do not include a religious leader of an inmate's faith, the chaplain shall assist the inmate in contacting a person who has the appropriate credentials from the faith judicatory. That person may minister to the inmate under the supervision of the chaplain.~~

~~(5) The chaplain, in cooperation with the jailer or designee, shall develop and maintain communications with faith communities and approve donations of equipment or materials for use in religious programs.~~

~~(6) The jailer shall have final authority over publications, services, volunteers, and other operations of religious services.~~

~~(7) Jailer or designee responsibilities. The jailer or designee shall:~~

~~(a) Assure equal status and protection for all religions listed in the inmate Religious Beliefs and Practices Manual;~~

~~(b) Coordinate scheduling of religious programs;~~

~~(c) Have access to approved areas of the jail;~~

~~(d) Develop and maintain close relationships with community religious resources; and~~

~~(e) Coordinate and supervise all religious volunteers.~~

~~(8) Religious Programming.~~

~~(a) The provisions of the Inmate Religious Beliefs and Practices Manual notwithstanding, the following religious practices and activities shall not be authorized:~~

~~1. Animal sacrifice;~~

~~2. Language or behavior that may reasonably be construed as a threat to safety, security, or the orderly running of the institution;~~

~~3. Nudity;~~

~~4. Self mutilation;~~

~~5. Use, display, or possession of weapons or what appear to be weapons;~~

~~6. Paramilitary exercises;~~

~~7. Self-defense training;~~

~~8. Sexual acts;~~

~~9. Profanity;~~

~~10. Consumption of alcohol (except consumption by the celebrating ordained minister as provided in the Inmate Religious Beliefs and Practices Manual);~~

~~11. Ingestion of illegal substances;~~

~~12. Proselytizing;~~

~~13. Inscription;~~

~~14. Discouragement of other religions; or~~

~~15. Use of candles or open flames inside any building.~~

~~(b) The jail shall provide space and equipment adequate for the conduct and administration of each religious program.~~

~~1. In an institution that uses a common worship area, adequate space shall be provided for religious emblems and other items used during worship.~~

~~2. The institution shall maintain a basic library of religious reading materials, which shall include required literature of faiths represented by the inmate population.~~

~~(c) Services and ceremonies.~~

~~1. Each jail shall allow religious services pursuant to this policy.~~

~~2. A specific religious service and ceremony may be provided based upon the inmate's stated religious preference.~~

~~(d) Religious objects and literature. All jails shall permit an inmate to possess items essential to the practice of his particular religious faith if the items are not a threat to institutional security.~~

~~(e) Religious diets. The jail shall, to the extent it is feasible and within appropriate jail resources, provide each inmate with the opportunity to satisfy the minimum dietary requirements deemed essential by the Inmate Religious Beliefs and Practices Manual. Religious diets shall be included in the Department of Corrections' master menu. Any request for a religious diet not included in the master menu shall be reviewed by the jailer or designee.~~

~~(f) New religious components. If a request is made for a religious service not represented at the jail, the jailer or designee shall consult the Inmate Religious Beliefs and Practices Manual.~~

~~1. If the request is in compliance with the Inmate Religious Beliefs and Practices Manual, it shall be implemented.~~

~~2. If the request is for a religion or religious practice that is not represented in the Inmate Religious Beliefs and Practices Manual, then the request shall be denied.~~

~~3. Documentation of the request and action taken shall be forwarded to the jailer or designee.~~]

(3)[~~(g)~~] Inmate responsibilities.

(a)[~~1.~~] Upon entry into the correctional system, an inmate's religious preference shall be recorded on the inmate I.D. form.

(b)[~~2.~~] After three (3) months, an inmate may change his religious preference by contacting the jailer or designee.

(c)[~~3.~~] It shall be the inmate's responsibility to seek a job or program assignment that does not conflict with his religious beliefs and practices.[~~4. An inmate request for a special service or ceremony shall be made at least forty-five (45) days prior to the requested date. This request shall be made in writing to the chaplain and shall include a statement of the reason for the request. In order to ensure consistency of religious programming, any special request shall be referred through the institutional administration to the Director of Operations/Programs for appropriate action.~~

~~(9) Staff Meetings and Training. The jail's chaplains or religious staff shall meet on a quarterly basis to address issues pertaining to religious services. These meetings shall be coordinated through the office of the Director of Operations/Programs.~~]

Section 5[~~6~~]. Recreation Programs. (1) Written policy and procedure shall provide all prisoners with the opportunity to participate in at least one (1) hour of physical exercise per day with at least three (3) exercise periods per week outside the cell. There shall be available one (1) hour of outdoor recreation two (2) times per week if weather permits. Prisoners who pose a threat to the safety and security of the jail shall be denied outdoor recreation.

(2) Leisure time and recreation programs shall be scheduled to permit prisoners to participate in board games, arts and crafts, radio and television or other activities designed to relieve idleness and boredom.

Section 6[~~7~~]. Programs for State Prisoners. (1) State prisoners may be provided the opportunity to participate in work programs in accordance with KRS 441.125.

(2) Substance abuse programs. State prisoners shall be provided the opportunity to participate in self-help substance abuse programs offered within the jail. State prisoners who apply for treatment and are accepted by the Division of Mental Health, shall be allowed to participate in the substance abuse program (SAP), if space is available or may be housed in jails offering the program, if space is available.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for prisoner programs and services in full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum standards for prisoner programs and services in full-service jails as required by KRS 441.055 and 532.100.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards for prisoner programs and services in full-service jails.

(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 removes the definition of chaplain and removes all reference to the Inmate Religion Belief Practice Manual; including religious diets, items, and practices. The regulation incorporates the Religion Reference Manual incorporated by 501 KAR 6:080.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It clarifies what types of religious programming are required or authorized in full-service jails.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jailers will have to offer or accommodate religious programming in accordance with the new standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Consistent religious programming in local and state institutions in accordance with constitutional principles.

(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 funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and county jails.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue

is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Others:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:140. Prisoner rights.

RELATES TO: KRS 441.045, 441.047, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes procedures to ensure the protection of rights of prisoners in those full-service jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written statement of prisoner rights that shall address:

(a) Access to court;

(b) Access to attorney;

(c) Mail;

(d) Telephone;

(e) Grievance procedure;

(f) Search and seizure;

(g) Disciplinary procedure;

(h) Racial segregation;

(i) Medical care; (j) Mental health care, if available; and

(k) Religion.

(2) The statement of prisoner rights shall be made available to all inmates being assigned to general housing units. The prisoner rights may be posted in a conspicuous place, provided in hard-copy format, or provided through closed circuit television. [~~in the booking area and living areas of the jail, and a copy shall be made available to the prisoner as soon after assignment as possible. Upon admission and receipt, a prisoner shall sign that he has received a written copy of the prisoner's rights.~~]

(3) The jailer shall not prohibit a prisoner's right of access to the judicial process.

(4) The jailer shall ensure the right of a prisoner to have confidential access to his attorney or authorized representative.

(5) The jailer shall have a written policy that defines the jail's visitation rules and regulations, which shall include:

(a) A schedule identifying no fewer than two (2) visiting days each week, one (1) of which shall be during the weekend;

(b) At least one (1) visit per week per prisoner shall be allowed except if a prisoner is assessed a disciplinary penalty for an infraction of rules governing visitation or the prisoner's current institutional behavior presents an imminent danger or threat of danger to staff or other prisoners;

(c) A visit shall not be less than fifteen (15) minutes;

(d) Two (2) or more persons permitted to visit at the same time shall count as a single visit; and

(e) Children, if accompanied by an adult, shall be permitted to visit a prisoner.

(6) Attorneys, clergy, and health care staff [~~medical personnel~~] shall be permitted to visit a prisoner at reasonable hours, other than during regularly scheduled visiting hours and shall not count as an allotted visit.

(7) Each visitor shall register before admission and shall be denied admission for refusal to register, refusal to consent to search, or for a violation of the visitation rules established pursuant to subsection (5) of this section or established in subsection (6) of this section.

(8) A prisoner shall not be restricted in regard to whom he may have as a visitor unless the jailer determines to exclude the visitor on the basis of one (1) or more of the following conditions:

(a) The visitor:

1. Represents a clear and present danger to security;
2. Has a past history of disruptive conduct at the jail;
3. Is under the influence of alcohol or drugs;
4. Refuses to submit to a search; or
5. Refuses to show proper identification; or

(b) The prisoner refuses the visit.

(9) Except for visitors pursuant to subsection (6) of this section, the jail personnel [~~staff~~] may monitor and record visitor and prisoner conversation for security reasons. Notification shall be posted in a conspicuous location in the visiting areas.

Section 2. Mail. (1) The jailer shall have written policy and procedure for receiving and sending mail that:

(a) Protects prisoners' personal rights; and

(b) Provides for security practices consistent with the operation of the jail.

(2) A prisoner shall be allowed to correspond with anyone if the correspondence does not violate state or federal law. Caution shall be taken to protect prisoner rights in accordance with court decisions regarding correspondence. A jailer may enact a policy prohibiting the sending or receipt of prisoner-to-prisoner mail. The policy shall permit the jailer discretion to grant the privilege.

(3) Incoming mail may be opened and inspected for contraband prior to delivery. Mail received from the court, an attorney of record, or a public official may be opened and inspected only in the presence of the prisoner.

Section 3. Telephone. (1) A newly admitted prisoner shall be permitted a reasonable number of local or collect long distance telephone calls to an attorney of the prisoner's choice, or to a family member, as soon as practical, generally within one (1) hour after arrival, until one (1) call has been completed.

(2) The jailer or his designee shall maintain a log of telephone calls made by a prisoner during the admission procedure unless those calls are made on a telephone in the housing area. The log shall document the date, time, and party contacted.

(3) Written policy and procedure shall permit each prisoner to complete at least one (1) telephone call each week. The expense incurred for a call shall be borne by the prisoner or the party called.

(4) A minimum of five (5) minutes shall be allotted for each phone call.

(5) If calls are monitored, the prisoner shall be notified.

(6) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

Section 4. Religion. (1) A prisoner shall be granted the right to practice his religion within limits necessary to maintain institution order and security.

(2) Each prisoner shall be afforded an opportunity to participate in religious services and receive religious counseling within the jail.

(3) A prisoner shall not be required to attend or participate in religious services or discussions.

Section 5. Access to Programs. The jailer shall ensure each prisoner equal access to programs and services, if the security and order of the jail will not be jeopardized.

Section 6. Grievance Procedure. The jailer shall have a written prisoner grievance procedure. The procedures shall include provi-

sions for:

(1) A response to each written grievance within ten (10) days [~~Response, within ten (10) days, to all grievance complaints, unless waived by the prisoner~~];

(2) Equal access for each prisoner;

(3) A guarantee [~~Guarantee~~] against reprisal; and

(4) Resolution of legitimate complaints.

Section 7. Disciplinary Rights. Each jail shall have a written policy and procedure for maintaining discipline, consistent with constitutional requirements for due process.

Section 8. Medical. Each prisoner shall be afforded access to necessary medical care.[~~(1) Jailers shall be required to report suicides or attempted suicides that constitute a serious health situation to the Kentucky Department of Corrections within twenty-four (24) hours.~~

~~(2) All jail personnel shall receive a minimum of four (4) hours of mental health training within their first year of service and one (1) additional hour of mental health training each year thereafter.~~

~~(3) Each jail shall have a written policy and procedure outlining staff response to detainees who are at risk for suicide or have attempted or completed suicide.~~

~~(4) The Kentucky Department of Corrections and Kentucky Jailers Association shall coordinate the development of and revisions to the mental health training curriculum.~~]

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman of the Jail Standards Review Advisory Commission

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business August 1, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures to ensure protection of prisoner rights in full-service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum standards for prisoner rights in full-service jails, as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards for prisoner rights in full-service jails.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It requires the inmates be able to view a copy of their rights by either hard copy or closed circuit television. It removes training requirements that have been moved to a new training regulation in the Chapter and standardizes terms being used within the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It improves the inmates understanding of their rights.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: It gives the jails additional options in how to notify prisoners of their rights.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): It will help the inmates understand their rights.

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

(a) Initially: Cost of copying the inmate's right manual.

(b) On a continuing basis: Cost of copying.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Dept. of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:150. Hearings, procedures, disposition.

RELATES TO: KRS Chapter 441

STATUTORY AUTHORITY: KRS 441.013

NECESSITY, FUNCTION, AND CONFORMITY: The Commissioner of the Department of Corrections is authorized by KRS 441.075(3) to hear matters covered by the order of the department requesting county jails, correctional or detention facilities to comply with the minimum standards for local jails pursuant to KRS 441.055 and to issue, modify or repeal the order at the conclusion of the hearing.

Section 1. Definitions. (1) "Day" means a calendar day. [~~"Commissioner" means the Commissioner of the Department of Corrections.~~

~~(2) "Department" means the Department of Corrections.~~

~~(3) "Standards" means the minimum jail standards for local jails.~~]

(2)[~~(4)~~] "Hearing officer" means a hearing officer appointed by the commissioner pursuant to KRS 441.075.

(3) "Order" means the order of the commissioner requiring the petitioner(s) to comply with the minimum jail standards for local jails as specified.

(4) "Petitioner" means the jailer or county/judge executive who requests a hearing for review of the commissioner's order.

(5) "Proceeding" means any proceeding before the commissioner or before a hearing officer.

(6) "Standards means the minimum jail standards for local jails. [~~"Day" means a calendar day.~~

~~(7) "Order" means the order of the commissioner requiring the petitioner(s) to comply with the minimum jail standards for local jails as specified.~~

~~(8) "Petitioner" means the jailer or county/judge executive who requests a hearing for review of the commissioner's order.~~

~~(9) "Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any county, city or urban county government.~~]

Section 2. Assignment of Hearing; Filings. (1) Pursuant to KRS 441.075(3), cases coming before the commissioner may be assigned to a hearing officer within the discretion of the commissioner for a hearing and a finding of facts, conclusions of law, and recommended order. Cases may be withdrawn by agreement, dismissed for cause, or otherwise disposed of before hearing in the discretion and judgment of the commissioner.

(2) A recommended order or adjudication by the hearing officer or the initial order of the commissioner, if dismissed or disposed of as provided in subsection (1) of this section, or any modification of repeal of the initial order, shall become the final order of the commissioner under the provisions of KRS 441.013(3), appealable to the Franklin Circuit Court, thirty (30) days from the date of issue.

(3) Prior to the assignment of a case to a hearing officer, the county jailer or county judge/executive shall, within seventy-two (72) hours of receipt of notification of order, request in writing a public hearing before the commissioner or his designee on the matters covered by said order to the Commissioner of the Department of Corrections, P.O. Box 2400, Frankfort, Kentucky 40602-2400. Subsequent to the assignment of the case to a hearing officer and prior to the issuance of his decision, all papers shall be filed with the hearing officer at the address given in the notice of hearing.

(4) All evidence and witnesses of both parties and interveners and all proof must be presented at the time of hearing. No additional evidence will be permitted thereafter except in unusual circumstances and within the discretion of the commissioner or the hearing officer.

(5) All hearings shall be held in Frankfort, Kentucky unless otherwise ordered by the commissioner.

(6) Unless otherwise ordered, all filing may be accomplished by first class mail.

(7) Filing is deemed effective at the time of mailing.

Section 3. Scope of Rules; Applicability of Kentucky Rules of Civil Procedure. (1) These rules shall govern all proceedings before the department and its hearing officers.

(2) In the absence of a specific provision, procedure shall be in accordance with the Kentucky Rules of Civil Procedure.

Section 4. Computation of Time. Where service of a pleading or documents is by mail pursuant to Section 2 of this administrative regulation, three (3) days shall be added to the time allowed by these rules for the filing of a responsive pleading.

Section 5. Notice and Time of Hearing. (1) Notice of hearings shall be given to all parties and interveners within forty-five (45) days from the receipt of the request for hearing unless otherwise ordered by the commissioner or his designee. No hearing shall be held later than ninety (90) days from the date of request.

(2) The notice of hearing shall include:

(a) Statement of the time and place of the hearing.

(b) The name and address of the assigned hearing officer.

(c) Statement of the legal authority and jurisdiction under which the hearing is held.

Section 6. Continuance of Hearing. (1) Continuance of a hearing ordinarily will not be allowed.

(2) Except in the case of an extreme emergency or in unusual circumstances, no such request will be considered unless received in writing at least three (3) days in advance of the time set for the hearing. The request for continuance must include the reasons therefor.

(3) Continuance of hearing not in excess of fifteen (15) days may be granted in the discretion of the hearing officer. One (1) additional continuance not in excess of fifteen (15) days may be granted by the hearing officer in extreme emergency or under unusual circumstances. No additional continuance may be granted without approval of the commissioner.

Section 7. Failure to Appear. (1) Subject to the provisions of subsection (3) of this section, the failure of a party to appear at a hearing shall be deemed to be a waiver of all rights except the rights to be served with a copy of the decision of the hearing officer.

(2) Requests for a newly scheduled hearing must be made in the absence of extraordinary circumstances within five (5) days after the scheduled hearing date.

(3) The commissioner or the hearing officer, upon a showing of

good cause, may excuse such failure to appear. In such event, the hearing will be rescheduled.

Section 8. Consolidation. Cases may be consolidated on the motion of any party, on the hearing officer's own motion, or on the commissioner's own motion, where there exist common parties, common questions of law or fact, or both, or in such other circumstances as justice and the administration of the Act require.

Section 9. Severance. Upon its own motion, or upon motion of any party or intervener, the commissioner or the hearing officer may, for good cause, order any proceeding severed with respect to some or all issues or parties.

Section 10. Intervention. (1) A petition for leave to intervene may be filed at any stage of a proceeding before commencement of the hearing, or in the event of a settlement or dismissal before issuance of a recommended order.

(2) The petition shall set forth the interest of the petitioner in the proceeding and show that participation of the petitioner will assist in the determination of the issues in question and that the intervention will not unnecessarily delay the proceeding.

(3) The commissioner or the hearing officer may grant a petition for intervention to such an extent and upon such terms as the commissioner or the hearing officer shall determine.

(4) The caption of all cases where intervention is allowed shall reflect such intervention by adding to the caption after the name of the respondent the name of the intervener, followed by the designation "intervener."

Section 11. Service. (1) At the time of filing pleadings or other documents a copy thereof shall be served by the filing party or intervener on every other party or intervener.

(2) Service upon a party or intervener who has appeared through a representative shall be made only upon such representative.

(3) Unless otherwise ordered, service may be accomplished by postage prepaid first-class mail or by personal delivery. Service is deemed effected at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).

(4) Proof of service shall be accomplished by a written statement of the same which sets forth the date and manner of service. Such statement shall be filed with the pleading or document.

(5) Where service is accomplished by posting, proof of such posting shall be filed not later than the first working day following the posting.

Section 12. Statement of Position. At any time prior to the commencement of the hearing before the hearing officer, any person entitled to appear as a party, or any person who has been granted leave to intervene, may file a statement of position with respect to any or all issues to be heard.

Section 13. Response to Motions. Any party or intervener upon whom a motion is served shall have ten (10) days from service of the motion to file a response.

Section 14. Failure to File. Failure to file any pleading pursuant to these rules when due, may, in the discretion of the commissioner or the hearing officer, constitute a waiver of right to further participation in the proceedings.

Section 15. Withdrawal of Notice of Hearing. At any stage of a proceeding, a party may withdraw his notice of hearing, subject to the approval of the commissioner.

Section 16. Prehearing Conference. (1) At any time before a hearing, the commissioner or the hearing officer, on their own motion or on motion of a party, may direct the parties or their representatives to exchange information or to participate in a prehearing conference for the purpose of considering matters which will tend to simplify the issues or expedite the proceedings.

(2) The commissioner or the hearing officer may issue a prehearing order which includes the agreements reached by the parties. Such order shall be served on all parties and shall be a part of the record.

Section 17. Requests for Admissions. (1) At any time after the filing of responsive pleadings, any party may request of any other party admissions of facts to be made under oath. Each admission requested shall be set forth separately. The matter shall be deemed admitted unless, within fifteen (15) days after service of the request, or within such shorter or longer time as the commissioner or the hearing officer may prescribe, the party to whom the request is directed serves upon the party requesting the admission of a specific written response.

(2) Copies of all requests and responses shall be served on all parties in accordance with the provisions of these rules and filed with the commissioner within the time allotted and shall be a part of the record.

Section 18. Discovery Depositions and Interrogatories. (1) Except by special order of the commissioner or the hearing officer, discovery depositions of parties, interveners, or witnesses, and interrogatories directed to parties, interveners, or witnesses shall not be allowed.

(2) In the event the commissioner or the hearing officer grants an application for the conduct of such discovery proceedings, the order granting the same shall set forth appropriate time limits governing the discovery.

Section 19. Failure to Comply with Orders for Discovery. If any party or intervener fails to comply with an order of the commissioner or the hearing officer to permit discovery in accordance with the provisions of these rules, the commissioner or the hearing officer may issue appropriate orders.

Section 20. Reporter's Fees. Reporter's fees shall be equally shared by all parties. This shall include the reporter's per diem costs and the cost of the original transcript. All other copies will be paid by the requesting party.

Section 21. Transcript of Testimony. Hearings shall be transcribed verbatim. A copy of the transcript of testimony taken at the hearing, duly certified by the reporter, shall be filed with the hearing officer before whom the matter was heard. The hearing officer shall promptly serve notice upon each of the parties and interveners of such filing. Participants desiring copies of such transcripts may obtain the same from the official reporter upon payment of fees fixed therefore[~~therefor~~].

Section 22. Duties and Powers of Hearing Officers. It shall be the duty of the hearing officer to conduct a fair and impartial hearing, to assure that the facts are fully elicited, to adjudicate all issues and avoid delay. The hearing officer shall have authority with respect to cases assigned to him, between the time he is designated and the time he issues his decision, subject to the rules and administrative regulations of the department; to:

(1) Administer oaths and affirmations;

(2) Rule upon offers of proof and receive relevant evidence;

(3) Regulate the course of the hearing and, if appropriate or necessary, exclude persons or counsel from the hearing for contemptuous conduct and strike all related testimony of witnesses refusing to answer any proper questions;

(4) Hold conferences for the settlement or simplification of the issues;

(5) Dispose of procedural requests or similar matters including motions referred to the hearing officer by the commissioner and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened or, upon motion, consolidated prior to issuance of this decision;

(6) Examine witnesses and to introduce into the record documentary or other evidence;

(7) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(8) Adjourn the hearing as the needs of justice and good administration require; and

(9) Take any other action necessary under the foregoing and authorized by the published rules and administrative regulations of the department.

Section 23. Exhibits. (1) All exhibits offered in evidence shall be numbered and marked with a designation identifying the party or intervener by whom the exhibit is offered.

(2) In the absence of objection by another party or intervener, exhibits shall be admitted into evidence as a part of the record, unless excluded by the hearing officer pursuant to Section 27 of this administrative regulation.

(3) Unless the hearing officer finds it impractical, a copy of each such exhibit shall be given to the other parties and intervenors.

(4) All exhibits offered, but denied admission into evidence, shall be identified as in subsection (1) of this section and shall be placed in a separate file designed for rejected exhibits.

Section 24. Rules of Evidence. Hearings before the department and its hearing officers insofar as practicable shall be governed by the Kentucky Rules of Evidence.

Section 25. Burden of Proof. In all proceedings commenced by the filing of a notice of hearing, the burden of proof shall rest with the department.

Section 26. Objections. (1) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence or a ruling of the hearing officer, may be stated orally or in writing, accompanied by a short statement of the grounds for the objection, and shall be included in the record. No such objection shall be deemed waived by further participation in the hearing.

(2) Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record of the proceeding.

Section 27. Recommendations of Hearing Officer; Exceptions; Final Order. (1) The decision of the hearing officer shall include findings of fact, conclusions of law, and a recommended order to the commissioner disposing of all issues before him.

(2) Any party may file exceptions to the hearing officer's findings of fact, conclusions of law, and recommended order within ten (10) days of the date of said findings of fact, conclusions of law, and recommended order.

(3) The commissioner shall, within forty-five (45) days of the date of the hearing officer's findings of fact, conclusions of law, and recommended order, issue a final order modifying, repealing, or adopting the findings of fact, conclusions of law and recommended order of the hearing officer.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures and definitions for hearings, procedures and dispositions.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes hearing procedures pursuant to KRS 441.075(3).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes hearing procedures.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It adds, deletes and revises definitions within the current regulation.

(b) The necessity of the amendment to this administrative regulation: To comply with requirements of KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jail Standard Commission recommendations as required by KRS 532.100.

(d) How the amendment will assist in the effective administration of the statutes: The amendment accepts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None. It simply makes changes required by statute.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The hearing procedures apply equally to all jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Dept. of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of the state inmates. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:010. Definitions for 501 KAR Chapter 7.

RELATES TO: KRS 67.900, 67A.028, 67B.020(1), 441.045, 441.055, Ky. Const. Sec. 99, 152

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes definitions for 501 KAR Chapter 7, regulating restricted custody centers.

Section 1. Definitions. (1) "Department" is defined in KRS 441.005(5)

(2) "Jailer" means:

(a) The official duly elected or appointed pursuant to Section 99 or 152 of the Kentucky Constitution, charged with the responsibility of administering the center;

(b) A department as defined in KRS 67B.020(1); or

(c) A correctional services division as created by KRS 67A.028.

(3) "Governing authority" means a county fiscal court, urban-county government, charter county government, consolidated local government, unified local government or regional jail authority.

(4) "Jail personnel" is defined in KRS 441.005(6).

(5)[~~(2)~~] "Medical authority" means the person or persons licensed[~~and certified~~] to provide medical care to prisoners in the jail's custody.

(6)[~~(3)~~] "Pat or frisk" means a manual search of a clothed person and includes a visual inspection of the open mouth.

(7)[~~(4)~~] "Prisoner" is defined in KRS 441.005(3).

(8)[~~(5)~~] "Prisoner living area" means a group of rooms or cells which provide housing for the prisoner population.

(9)[~~(6)~~] "Probing of body cavities" means a manual or instrument search of a person's oral, anal, vaginal, or other body cavity, performed by medical personnel.

(10)[~~(7)~~] "Restricted custody center" or "center" means a facility or area separate from the jail used for the housing of:

(a) Sentenced prisoners who have been approved for educational, work or program participation release; and

(b) Pretrial prisoners who have been approved by the court for educational, work or program participation release.

(11)[~~(8)~~] "Security area" means a defined space whose physical boundaries have controlled ingress and egress.

(12) "Sexually abusive conduct" includes but is not limited to, sexual contact, sexual intercourse and deviate sexual intercourse, as defined by KRS 510.010 and sexual abuse as defined by National Prison Rape Elimination Commission's Standards for the Prevention, Detection, Response and Monitoring of Sexual Abuse in Adult Prisons and Jails.[~~(9) "Staff" means deputy jailers and other personnel involved in the supervision, custody, care, or treatment of prisoners in the center.~~]

(13)[~~(10)~~] "Strip search" means a body search during which a person is required to open or remove clothing, and during which a person is subject to visual inspection of the torso, female breast, genital area, and anal area, as well as other body cavities.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes definitions for 501 KAR Chapter 7, regulating restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements to KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes definitions for the minimum standards set in Chapter 7 regarding restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes definitions for the minimum standards set in Chapter 7 regarding restricted custody centers as required by KRS 441.055.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It adds the definitions for "Department", "Governing Authority", "Jail Personnel" and "Sexually Abusive Conduct" and removes the definition of "Staff".

(b) The necessity of the amendment to this administrative regulation: To revise the definitions used within Chapter 7 as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear definitions for Chapter 7.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers (22 are in separate buildings apart from the jails and 33 are attached to the jails) and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Jail staff will have a clear understanding of the definition within Chapter 7.

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

(a) Initially: No costs.

(b) On a continuing basis: No cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. Definitions apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:020. Administration; management.

RELATES TO: KRS 441.055

STATUTORY AUTHORITY: KRS 441.045, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes procedures to be followed for the administration and management of restricted custody centers.

Section 1. Policy, Procedure, and Organization. (1) The jailer shall develop and maintain an organizational chart and [~~an operations manual of~~] policy and procedure manual which has been adopted by the governing authority [~~fiscal court~~] and filed with the department.

(2) The written policy and procedures manual shall be available to employees.

(3) The policy and procedures [~~operations~~] manual shall include the following aspects of the center's operation:

(a) Administration;
(b) Fiscal management;
(c) Personnel;
(d) Security and control;
(e) Sanitation and management; (f) Medical services;
(g) Food services;
(h) Emergency and safety procedures;
(i) Classification;
(j) Prisoner programs;
(k) Prisoner services; and
(l) Admission and release.

(4) The policy and procedures [~~operations~~] manual shall be reviewed, [~~and~~] updated and any changes approved by the governing authority at least annually. Each revision shall be marked with the effective date and filed with the department.

Section 2. Public Information. (1) The jailer shall develop and implement a procedure for the dissemination of information about the center to the public, to government agencies, and to the media. The public and prisoners shall have access to the procedure.

(2) With the prisoner's written consent on a form authorizing release of information, news media shall be permitted to interview a prisoner as set forth in the center's policy and procedure manual, except if the safety and security of the center is affected.[~~(3) Written policy and procedure shall establish the time and length allow-~~

~~able for a prisoner interview.~~

~~(4) An official statement to the news media relating to center administration policy shall be made by the jailer or his designee.~~

~~(5) The procedure for the release of prisoner information shall include the following:~~

~~(a) A request for information shall be addressed to the jailer;~~

~~(b) A governmental agency shall be provided with information pertinent only to its specific function; and~~

~~(c) A private citizen shall be provided with only that information supplied to the media.~~

~~(6) Information that is detrimental to another prisoner shall not be released.~~]

Section 3. Information Systems. The jailer shall establish and maintain an information system.

(1) Center information and prisoner records shall be:

(a) Retained in written or electronic form; and

(b) Stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Prisoner records shall be maintained as required by the Department of Libraries and Archives pursuant to 725 KAR Chapter 1. [~~Written guidelines shall specify the length of time a prisoner record shall be maintained after the prisoner's release from custody and the conditions under which archives shall be maintained.~~]

(2) A telephonic report to the Department shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence, and a final written report shall be made [~~of an extraordinary or unusual occurrence~~] within forty-eight (48) hours [~~of the occurrence~~]. The report shall be placed in the prisoner's center record. An extraordinary or unusual occurrence shall include:

(a) Death of a prisoner;

(b) Attempted suicide that constitutes a serious health situation, or suicide;

(c) Serious injury, whether accidental or self-inflicted;

(d) Attempted escape or escape from center;

(e) Fire;

(f) Riot;

(g) Battery, whether by jail personnel[~~a staff member~~] or prisoner;

(h) Sexual abusive conduct [~~assault~~]; and

(i) Occurrence of contagious or infectious disease, or illness within the center facility.

(3) The center shall keep a log of daily activity. [~~(4) Each center shall maintain records on the types and hours of training completed by each employee. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.~~]

Section 4. Prisoner Records. (1) The information required by 501 KAR 7:120 for admission and release shall be retained for each prisoner in the prisoner's center record. Other information retained in each prisoner's center record shall include:

(a) Court orders;

(b) Personal property receipts;

(c) Infraction reports;

(d) Reports of disciplinary actions;

(e) Work record and program involvement;

(f) Any extraordinary or unusual occurrence; and

(g) If a prisoner dies, the disposition of the prisoner's property and remains.

(2) Medical records shall be maintained as required by the Department of Libraries and Archives pursuant to 725 KAR Chapter 1.

(3) The jailer shall ensure that prisoner records are safeguarded in accordance with federal and state laws and regulations.

(4) The jailer shall require a prisoner to sign a form authorizing release of information, [~~"Release of Information Consent Form"~~] prior to the release of information, other than public information, to an individual other than law enforcement or a court official. A copy of the signed [~~consent~~] form shall be maintained in the prisoner's record. This form shall include:

(a) Name of person, agency or organization requesting information;

(b) Name of center facility releasing information;

(c) Specific information to be disclosed; [~~(d) Purpose of the information;~~]

(d)[~~(e)~~] Date consent form signed; and

(e)[~~(f) Signature of prisoner; and~~

~~(g)~~] Signature of employee witnessing the prisoner's signature.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum standards to be followed for the administration and management of restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements to KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes administration and management procedures to be followed in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards to be followed for the administration and management of restricted custody centers.

(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 revisions standardize terms used within the Chapter and some of the provisions concerning release of information were deleted to allow the jail to determine those matters. Telephonic notice of extraordinary occurrences was added. Training records requirements were moved to a new training regulation within the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear administrative and

management standards for restricted custody centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers (22 are in separate buildings apart from the jails and 33 are attached to the jails) and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The jails will have to comply with the updated documentation and reporting requirements and may revise their release of information policies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The jails may change their policies concerning release of information since several requirements were deleted and the department will have more efficient and effective documentation and reporting.

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

(a) Initially: No costs.

(b) On a continuing basis: No cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding should be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:030. Fiscal management.

RELATES TO: KRS 43.070, 441.055, 441.135

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes fiscal management procedures to be followed in restricted custody centers.

Section 1. Budgeting and Accounting. The center's budget and fiscal records shall be kept in accordance with the general records of the center.

Section 2. Canteen. (1) As provided in KRS 441.135, each jailer may establish a canteen to provide prisoners[~~residents~~] with approved items not supplied by the center.

(2) The records of income, expense, and disbursements of the canteen shall be examined annually by the Auditor of Public Accounts concurrently with the annual audit of the county conducted in accordance with KRS 43.070(1)(a), unless the Auditor of Public Accounts declines to perform the examination of the canteen fund or has failed to respond to written notice of intent to employ a certified public accountant within thirty (30) days of receipt of the notice.

(a) If the county judge/executive notifies the Auditor of Public Accounts with specific or known jail canteen fund concerns or irregularities, the auditor shall thoroughly investigate the noted concerns or irregularities in the examination if, in the auditor's judgment, the investigation is warranted.[~~(b) The Auditor of Public Accounts shall forward a copy of the report of any jail canteen examination it performs to the Kentucky Department of Corrections.~~]

(b)[~~(c)~~] The jailer shall forward a copy of the report of any jail canteen audit to the Kentucky Department of Corrections.

(c)[~~(d)~~] The cost of the canteen fund audit [~~examination~~] shall be paid from the canteen fund as an allowable expense. If the jail's canteen fund is insufficient to cover the expense of the examination, the expense shall be borne by the county jail fund.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on

this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes fiscal management procedures to be followed in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements to KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes fiscal management procedures to be followed in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes fiscal management minimum standards to be followed in restricted custody centers.

(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 changes standardize terms used. It no longer requires the auditor of public accounts to send a copy of the canteen audit to the Kentucky Department of Corrections.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear fiscal management standards for restricted custody centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers (22 are in separate buildings apart from the jails and 33 are attached to the jails) and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates and an unknown number of staff within the Auditor's office.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action required. The Auditor's office may stop sending an audit report to Corrections.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Standardized terms increase understanding.

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

(a) Initially: No costs.

(b) On a continuing basis: No cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:040. Personnel.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes personnel procedures to be followed in restricted custody centers.

Section 1. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of one (1) jail personnel excluding jail personnel designated for communication [~~two (2) staff members, excluding jail personnel designated for communication staff~~]. If requested by the jailer or governing authority [~~fiscal court~~], the Department [~~of Corrections~~] may conduct a staffing analysis.

(2) If a female prisoner is housed in the center, the center shall provide a female deputy to perform twenty-four (24) hour awake supervision.

Section 2. Qualifications. Jail personnel [~~Security employees~~] shall be at least twenty-one (21) years of age.

Section 3. Compensation. Each employee shall receive a wage that is at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies. [~~Section 4.Training. Jail personnel whose jobs require prisoner supervision shall successfully complete a minimum of sixteen (16) hours annual in-service training delivered by the department on a regional or basis, or by computer-based training, or by another agency after first being reviewed and approved by the Department of Corrections.~~

Section 4[~~5~~]. Policy and Procedure. Written policy shall specify that equal employment opportunities exist for every [~~staff~~] position.

Section 5[~~6~~]. Physical Fitness. The jailer shall ensure that a level of physical fitness is maintained that will allow each employee to satisfactorily perform his duties.

Section 6[~~7~~]. Code of Ethics. (1) The jailer shall make a written code of ethics available to each employee.

(2) The written code of ethics shall be incorporated in the center's policy and procedures manual and shall include the following:

(a) An employee shall not:

1. Exchange a personal gift or a favor with a prisoner, his family, or friend;

2. Accept any form of bribe or unlawful inducement;

3. Perform duties under the influence of an intoxicant or consume an intoxicant while on duty;

4. Violate or disobey an established rule, administrative regulation, or lawful order from a superior;

5. Discriminate against any prisoner on the basis of race, religion, creed, gender, national origin, or other individual characteristic;

6. Employ corporal punishment or unnecessary physical force;

7. Subject a prisoner to physical or mental abuse;

8. Intentionally demeanor humiliate a prisoner;

9. Bring a weapon or an item declared as contraband into the center without proper authorization;

10. Engage in critical discussion of jail personnel [~~staff~~] or any prisoner in the presence of a prisoner;

11. Divulge confidential information without proper authorization;

12. Withhold information which, in so doing, threatens the security of the center, jail personnel [~~its staff~~], visitors, or the community;

13. Through negligence, endanger the well-being of self or others;

14. Engage in any form of business or profitable enterprise with a prisoner;

15. Inquire about, disclose, or discuss details of a prisoner's crime other than as may be absolutely necessary in performing official duties;

16. Enter into an intimate, personal relationship with a prisoner while the prisoner is incarcerated at the same jail that the employee is employed by; or

17. Enter into an intimate, personal relationship with a former prisoner of jail within six (6) month of that prisoner's release.

(b) An employee shall:

1. Comply with established rules, administrative regulations, and lawful orders from superiors;

2. Treat prisoners in a fair, impartial manner; and

3. Report a violation of the code of ethics to the jailer.

(3) A violation of the code of ethics shall be made a part of the employee's personnel file.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum standards for personnel procedures in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements to KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes personnel procedures to be followed in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards to be followed for personnel in restricted custody centers.

(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 reduces the number of jail personnel required at all times and removes training requirements that have been moved to a new training regulation in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It updates the minimum personnel standards as required by KRS 441.055.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers (22 are in separate buildings apart from the jails and 33 are attached to the jails) and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jailers will not have to maintain as many

jail personnel in a restricted custody center.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Decreasing the jail personnel requirements may decrease the payroll.

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

(a) Initially: No costs.

(b) On a continuing basis: No cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:050. Physical plant.

RELATES TO: KRS 441.045, 441.055, 441.064, 441.075
STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes standards and procedures to be followed in the design and construction of restricted custody centers and provides minimum standards for the renovation and construction of restricted custody centers and for measuring compliance of existing centers in accordance with KRS 441.055, 441.064, and 441.075.

Section 1. Consultation. If requested, the department may provide to a governing authority [~~The department shall provide to a county government~~] seeking to remodel an existing restricted custody center or construct a new center, a consultant knowledgeable in the design, utilization, and operation of detention facilities. The consultant may [~~shall~~] meet with the appropriate officials of that county and advise them concerning:

(1) Site selection;

(2) Probable need as it relates to capacity and types of prisoners to be housed;

(3) Sources of financing for constructing;(4) Laws and administrative regulations relating to treatment of prisoners;

(5) Laws and administrative regulations relating to facilities for prisoners;

(6) Sources of revenue for operations of the center;

(7) Probable cost for operation of the center; and

(8) Potential for sharing facilities with adjoining counties.

Section 2. Site Acceptance. A center shall not be built without site acceptance by the department. The following criteria shall be considered in site selection:

(1) Size;

(2) Proximity to court;

(3) Proximity to community resources;

(4) Availability of public transportation;

(5) Environmental health;

(6) Adequate parking; and

(7) Provisions for future expansion.

Section 3. Construction Documents. Prior to the renovation or construction of any restricted custody center, plans and specifications shall be submitted to the department for review and approval. Plans and specifications for jail renovation or construction shall contain the following criteria and documentation:

(1) For major renovation or new construction, a programming phase, to include:

(a) Evaluation of existing center [~~facility~~];

(b) Population analysis as based on the NIC staffing analysis, and may include, jail's operations, jail programs, court location and transportation issues;

(c) Space requirements based on population analysis and standards for the center and site outlined in this administrative regulation;

(d) Staffing analysis;

(e) Cost analysis to include construction and operation cost;

(f) Financing alternatives, if applicable;

(g) Design-construction time schedule; and

(h) Summary and recommendations.

(2) A schematic phase containing:

(a) A scale drawing of each floor plan with proposed rooms and areas one-eighth (1/8) inch minimum;

(b) A scale drawing of the site, locating the building, parking and other facilities one (1) inch = fifty (50) feet;

(c) Documentation of site as to:

1. Size;

2. Proximity to court;

3. Proximity to community resources;

4. Availability of public transportation;

5. Environmental health;

6. Adequate parking; and

7. Provisions of future expansion.

(d) Sections through the proposed structure indicating ceiling heights of rooms, mechanical spaces, roof slopes, and other related information;

(e) Scale elevation drawing of exterior walls;

(f) Schematic cost estimate to include revised construction and operation costs; and

(g) A revised design-construction time schedule.

(3) A design development phase containing:

(a) A scale drawing on each floor plan with proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;

(b) All necessary construction drawings including construction details;

(c) Specifications for materials and workmanship;

(d) A proposed contract with general and special conditions;

(e) Engineering calculations for the foundation, structure, heating, ventilating, air conditioning, lighting and plumbing; and

(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.

(4) A construction document phase containing:

(a) Revised design development construction drawings following review by all applicable agencies, signed by an architect registered in the Commonwealth of Kentucky, and revised, if necessary, to include changes required by the department; and

(b) Revised design development specifications of material and workmanship following review by all applicable agencies.

(5) A contract administration phase containing:

(a) Signed copies of the contracts for construction, financing and bonding;

(b) Signed copies of the construction permits; and

(c) Documentation of required review by other applicable state agencies.

(6) Every change order shall be submitted to the department for review and approval.

Section 4. Approval of Renovation, Construction Plans and Specifications. (1) Construction shall not begin until the construction document phase has been approved. The department shall:

(a) Review each submission within thirty (30) days of receipt; and

(b) Issue a letter of:

1. Approval;

2. Acceptance with required changes; or

3. Rejection, with reasons stated.

(2) Depending on the site of the proposed construction, renovation, or addition the department may combine two (2) or more phases, as outlined in Section 3 of this administrative regulation, for review and approval.

(3) A changes to the plans shall require redrawing unless specifically exempted by the department. Specifications shall be rewritten to reflect a change.

Section 5. Waiver of Compliance. (1) The department may grant a waiver of the implementation of the physical plant standards for an existing center if the department determines:

(a) That strict compliance shall cause unreasonable difficulties;

(b) That a waiver shall not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operations of the center; and

(c) That compliance shall be achieved in a manner other than that specified, but in a manner which is sufficient to meet the intent of this administrative regulation.

(2) If a waiver from a standard is desired, the responsible governing [~~local~~] authority shall submit a written request to the department. The written request shall include the following information:

(a) Citation of the specific standard involved;

(b) Identification and description of the specific difficulties involved in meeting strict compliance;

(c) Description of alternative proposed; and

(d) Provision of sufficient documentation which shall demonstrate that the waiver, if granted, shall not jeopardize the security, supervision of prisoners, programs, or the safe, healthful, or efficient operation of the center.

(3) A waiver, if granted by the department, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the department as conditions upon the waiver. A waiver shall not be granted for longer than twelve (12) months. A waiver granted for a twelve (12) month period shall be reviewed for reapproval at the end of the period.

Section 6. Facility Design. (1) Each center shall have two (2) separate entrances: a prisoner entrance and a service entrance. The department may permit these entrances to be combined.

(a) Prisoners' entry. The purpose of this entrance shall be to provide secure and controlled access to the center for prisoners.

(b) Service entrance. The purpose of this entrance shall be to provide access to service vehicles and delivery trucks with minimum security risks. It shall be located in close proximity to storage rooms and the kitchen area.

(2) Each exit in the security area shall be secured.

(3) Security area. The area shall enclose those facilities and services required for or used by prisoners. It shall contain the following function areas:

(a) Control area. This area shall be located in close proximity to the prisoner entrance and shall be used to monitor the movement of prisoners in and out of the center [~~facility~~].

(b) Visitation. Adequate space shall be made available for contact visits between prisoners and families. Tables and chairs shall be provided. Bathroom facilities shall be available to serve this area.

(c) Multipurpose room. The purpose of this area is to provide space for assembly of prisoners for specific program activities. Adequate furnishings shall be provided.

(d) Conference area. The purpose of this space is to provide space for confidential conferences between prisoners and lawyers, counselors, clergy, etc. A table and chairs shall be provided.

(e) Living areas.

1. Each sleeping room shall provide a minimum of forty (40) square feet per prisoner. More than forty (40) prisoners shall not be placed in a single sleeping room, with the exception of a direct supervision area as outlined in 501 KAR Chapter 3.

2. Each prisoner shall be provided in the sleeping room, at a minimum: bed, mattress and pillow, supply of bed linen, chair, and closet or locker space for the storage of personal items.

3. A sleeping area shall have lighting of at least twenty (20) foot-candles in the reading and grooming area, with a nightlight capable of providing five (5) foot-candles of light.

4. The center [~~facility~~] shall have one (1) toilet for every ten (10) prisoners, one (1) washbasin for every ten (10) prisoners and a shower for every twenty (20) prisoners. One (1) urinal may be substituted for each commode in male areas but the commodes shall not be reduced to less than one-half (1/2) the number required.

5. Phone facilities shall be available for prisoner use.

6. Each occupied area shall have temperature ranges within comfort zones, sixty-five (65) degrees Fahrenheit to eighty-five (85) degrees Fahrenheit.

7. Each occupied area shall have ventilation to meet air exchange as required in the Kentucky Building Code, 815 KAR 7:120.

(f) Kitchen. The purpose of this area is to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the center. Design features shall include compliance with standards for the Retail Food Code, 902 KAR 45:005. If food is not prepared in the center [~~facility~~], a food distribution area shall be substituted.

(g) Laundry facilities. Laundry facilities shall be available.

(h) Furnishings. Center furnishings shall be noncombustible and nontoxic as approved by the department.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards and procedures to be followed in the design and construction of restricted custody centers and provides minimum standards for the renovation and construction of restricted custody centers and for measuring compliance of existing centers in accordance with KRS 441.055, 441.064, and 441.075.

(b) The necessity of this administrative regulation: To conform to the requirements to KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes building procedures to be followed in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards to be followed for design and construction, renovation and construction, and for measuring compliance of existing of restricted custody centers.

(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 standardizes terms used in the Chapter and makes Department consultations permissive.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It updates the minimum construction standards for restricted custody centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers (22 are in separate buildings apart from the jails and 33 are attached to the jails) and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jails will need to request consultation assistance when needed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Assistance requests will be more clear.

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

(a) Initially: No costs.

(b) On a continuing basis: No cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding should be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Contact Person: Amy V Barker (502) 564-3279

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is only a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them. The Department will experience currently unknown staff costs in consultations, which will depend on the number of requests and the extent of consultation needed.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:060. Security; control.

RELATES TO: KRS 441.045, 441.055
STATUTORY AUTHORITY: KRS 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes security procedures to be followed in restricted custody centers.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing the security aspects of the center's operation.

(2) If requested in writing, the [~~The~~] department may [~~shall~~] provide technical assistance to the jailer in formulating written policy and procedure.

(3) The policies and procedures shall include:
(a) Prisoner rules [~~and regulations~~];
(b) Staffing;
(c) Searches of prisoner and of secure areas;
(d) Visitation;
(e) Key and weapon control;
(f) Prisoner head counts;
(g) Movement of prisoners;
(h) Emergency situations;
(i) Center schedule; and
(j) Administering medication.

Section 2. Prisoner Supervision. (1) Jail [~~Center~~] personnel shall conduct rounds of the center at least every sixty (60) minutes.

(2) There shall be at least three (3) documented prisoner counts every twenty-four (24) hours during which each prisoner's physical presence, by show of skin or by movement, shall be observed or his location accounted for. At least one (1) count shall be conducted per shift.

(3) Males and females shall be housed separately.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for weekly inspection, for contraband and physical security, of each area accessible to any prisoner.

(a) Isolated security spot checks for contraband shall be conducted daily.

(b) The center rules, as specified in Section 1(3)(a) of this administrative regulation, shall contain a clear definition of each item permitted in the center. All other items shall be considered contraband.

(c) There shall be a written procedure for reporting security irregularities and for confiscating contraband.

(2) A weapon, ammunition, chemical agent, related security equipment, or an object which may be used as a weapon shall not be permitted in the security area unless authorized by the jailer. A firearm shall not be permitted in the security perimeter unless authorized by the jailer, under emergency circumstances.

(3) All weapons, ammunition, chemical agents, or related security equipment, when not being carried or used, as authorized by the jailer, shall be stored in an arsenal, vault, or other secure room under lock.

(a) The weapons storage area shall be inaccessible to unauthorized persons.

(b) There shall be a written procedure for issuing and accounting for all weapons.

(4) Security devices and safety equipment shall be inspected each quarter to ensure they are maintained in proper working order.

(5) Tools and toxic, corrosive, or flammable substances, and other potentially dangerous supplies and equipment shall be stored in a secure, locked area not accessible to prisoners.

(6) A prisoner shall use hazardous tools, supplies, or equipment only under the direct supervision of jail [~~center~~] personnel, and shall be provided with proper safety equipment.

(7) A prisoner may be assigned the responsibility of providing prisoner services, including providing meals under the direct supervision of jail personnel [~~staff~~].

(8) A prisoner shall not be:
(a) Permitted to perform or assist in a security duty; or
(b) Assigned to a position of authority over another prisoner.

(9) A prisoner and his belongings shall be searched, in accordance with the guidelines established in 501 KAR 7:120, if entering the security perimeter.

(10) Written procedures shall be developed for transporting outside the center.

(11) Each center shall have key control procedures.

Section 4. Daily Center Log; Special Reports. A daily center log shall be kept current and shall reflect significant occurrences within the center. Special reports shall include:

(1) Use of force;
(2) Disciplinary action;
(3) Medical or mental health treatment;
(4) Feeding schedule and menus;
(5) Extraordinary occurrences:
(a) Fire;
(b) Assault;
(c) Suicide or attempted suicide that constitutes a serious health situation; or
(d) Escape or attempted escape;
(6) Prisoner vandalism;
(a) Destruction of center property; or
(b) Flooding of plumbing fixtures;
(7) Jail personnel [~~Staff~~] roster for each shift;
(8) Visitors' log; or
(9) Fire emergency planning sessions, pursuant to 501 KAR 7:070, Section 1(1).

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279
(1)Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes security procedures to be followed in

restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements to KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes security procedures to be followed in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards to be followed for security procedures in restricted custody centers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It requires technical assistance be requested in writing and requires all dangerous supplies and equipment be stored in a locked area not accessible to the prisoners. It standardizes terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It updates the minimum security standards as required by KRS 441.055.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers (22 are in separate buildings apart from the jails and 33 are attached to the jails) and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,344 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Jail personnel will have to ensure supplies and equipment are stored in a locked area not accessible to the prisoners and technical assistance requests need to be made in writing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Assistance requests will be more clear.

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

(a) Initially: No costs.

(b) On a continuing basis: No cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding should be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is only a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:070. Safety; emergency procedures.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes safety and emergency procedures to be followed in restricted custody centers.

Section 1. Policy and Procedure. (1) Each center shall work with its local fire department to develop a written policy and procedure that shall specify fire prevention [~~administrative regulations and~~] practices to ensure the safety of prisoners, visitors, and jail personnel [~~staff~~]. The policy shall include:

(a) Fire [~~Provision for a fire~~] emergency planning session for jail personnel [~~staff~~] at least quarterly;

(b) Maintaining written [~~Written~~] documentation of the fire planning session including evacuation, fire drills, and other procedures covered during this session;

(c) A fire safety inspection by the department at least once a year;

(d) Inspection and testing of fire protection equipment by a qualified person at least annually with visual inspections by jail personnel [~~staff~~] monthly;

e) All restricted custody centers shall be tobacco free [~~deemed nonsmoking~~] facilities; and

(f) An evacuation plan coordinated with local fire officials and approved by the department [~~of Corrections~~].

(2) Each center shall have written policy and procedures for emergency situations including:

(a) Escape;

(b) Hostage taking;

(c) Riot;

(d) Food poisoning;
(e) Civil disturbance in the community;
(f) Natural disaster;
(g) Suicide;
(h) Other death and disorder; and
(i) Mass evacuation disaster plan.

Section 2. Physical Plant. (1) The center shall comply with the Kentucky Building Code, incorporated by reference in 815 KAR 7:120. An existing center for which approval has been granted may continue without change, except if a significant alteration, addition, or change of occupancy occurs.

(2) Each exit shall be:
(a) Distinctly and permanently marked;
(b) Visible at all times;
(c) Kept clear; and
(d) Maintained in usable condition.

(3) Each center shall have equipment necessary to maintain essential lights, power, HVAC and communications in an emergency situation.

(4) Each center shall have a [~~an approved~~] fire alarm and smoke detection system.

(5) Each area shall have a [~~an approved~~] fire-suppression system.

This is to certify that the Jail Standards Commission has approved this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: It establishes safety and emergency procedures to be followed in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes safety and emergency procedures to be followed in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards to be followed for safety and emergency in restricted custody centers.

(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 changes the facility from non-smoking to tobacco free. It standardizes and clarifies terms used in the Chapter and requires emergency equipment to maintain essential HVAC.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It provides current and clear safety and emergency management standards for restricted custody centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Requires the facility to change from non-smoking to tobacco free and to review its emergency equipment for essential HVAC.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An additional cost may occur if the facility is not already prepared to maintain essential HVAC in an emergency.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Being a tobacco free facility decreases health and maintenance cost at the center. Advanced planning assists when an emergency arises.

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

(a) Initially: An additional cost may occur if additional equipment is needed to maintain essential HVAC in an emergency. The cost will depend on the additional equipment needed.

(b) On a continuing basis: No cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted 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: Funding may need to increase depending on whether additional equipment is needed for the jail or it may still be covered by the funds paid by the Department. See (4)(b).

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first

full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:080. Sanitation; hygiene.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes procedures for proper sanitation and hygiene in restricted custody centers.

Section 1. Procedures. (1) The jailer shall provide for:

(a) The control of vermin and pests; and

(b) Both solid and liquid waste disposal.

(2) The jailer shall have a written preventative maintenance plan which includes schedules for:

(a) Cleaning various specified locations and items in the center;

(b) Inspections by the jailer;

(c) Trash and garbage removal; and

(d) Periodic inspection and maintenance of specified mechanical equipment.

(3) The center shall have fresh, purified air circulating within each prisoner living and activity area.

(4) The center shall furnish clean, sanitized bedding to prisoners, including:

(a) One (1) penal mattress;

(b) One (1) blanket, if conditions require;

(c) Two (2) sheets;

(d) One (1) pillow, if not part of the mattress; and

(e) One (1) pillowcase, if applicable.

(5) Prisoner bedding shall be cleaned on a regular basis according to the following schedule:

(a) Sheets, pillowcases, and mattress cover shall be cleaned at least once per week or upon reissue to another inmate;

(b) Blankets shall be laundered [~~cleaned~~] upon reissue or quarterly, whichever is sooner; and

(c) Mattresses and pillows shall be cleaned quarterly or upon reissue to another inmate.

(6) Each prisoner shall be issued a clean towel. Towels shall be laundered at least twice weekly and laundered prior to [~~weekly, or more as needed, or upon~~] reissue to another inmate. Prisoners shall not be required to be without a towel while laundry is being processed.

(7) Provisions shall be made for laundering prisoner clothing at least twice weekly. Prisoners shall not be required to be without clean clothing while laundry is being processed. [~~once a week.~~]

(8) Floors, toilets, and sinks shall be washed daily or more often as necessary.

(9) Showers shall be cleaned on at least a weekly basis.

(10)(a) Prisoners shall be issued or permitted to obtain the following hygienic items:

1. Soap;
2. Toothbrush;
3. Toothpaste;
4. Toilet paper; and
5. Female sanitary supplies, if applicable.

(b) An indigent prisoner shall be furnished these items by the center.

(11) Hair cutting services or sanitized hair cutting equipment shall be available to all prisoners.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: It establishes minimum standards to be followed for proper sanitation and hygiene in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum sanitation and hygiene requirements for restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum sanitation and hygiene requirements for restricted custody centers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It requires towels and clothes be laundered twice a week and prisoners cannot be without towels or clothes during the

laundering process.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It ensures appropriate sanitation and hygiene in restricted custody centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Restricted custody centers will have to have towels and clothes laundered twice a week and ensure that a prisoner is not left without either during the laundering process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There may be a small increase in cost for laundry if the center is not already laundering twice a week and require the purchase of additional bedding and toweling if center stock if not sufficient to prevent a prisoner from being without bedding and toweling when laundry is being done.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): More sanitary conditions for prisoners in restricted custody centers.

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

(a) Initially: Any additional cost will depend on whether the center is already laundering twice a week and whether it needs to increase its bedding and toweling stock.

(b) On a continuing basis: Normal replacement costs for worn out bedding and toweling and possibly detergent costs.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: An increase in funding would depend on the factors discussed in (5)(a) & (b) and should be covered by the money paid to the jail for incarcerating state inmates.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:090. Medical services.

RELATES TO: KRS 72.025, 441.045, 441.055, 441.560

STATUTORY AUTHORITY: KRS 441.055, 441.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes procedures to provide proper medical services in restricted custody centers.

Section 1. Medical Services. (1) The center's medical services shall be provided by contracting with a Kentucky licensed health care provider.

(2) The medical authority shall be a licensed practical nurse (LPN), a higher level of licensed nurse, a licensed medical doctor, or licensed doctor of osteopathy. Tele-medicine technology may be used.

(3)[~~(2)~~] The health care [~~medical~~] staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the center's security requirements.

(4)[~~(3)~~] All health care staff working in the center shall comply with state licensure and certificate requirements commensurate with similar health care personnel working elsewhere in the community. Copies of the licenses and certificates for health care staff employed by the center shall be maintained on file within the center.

(5)[~~(4)~~] A daily medical log shall be maintained documenting specific medical treatment rendered in the center. This log shall be kept current to the preceding hour.

(6)[~~(5)~~] Prisoners [~~Residents~~] shall not perform any medical functions within the center.

(7)[~~(6)~~] Prisoners [~~Residents~~] shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the center.

(8)[~~(7)~~] All medical procedures shall be performed according to orders issued by the responsible medical authority.

(9)[~~(8)~~] Medical screening information shall be transferred to the center from the jail on each prisoner. Jail personnel [~~resident. Staff~~] shall insure that the information is current when the prisoner [~~resident~~] is transferred. The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems;

(b) Medications taken and special health requirements;

(c) Screening of other health problems designated by the medical authority;

(d) Behavioral observation, state of consciousness, and mental status;

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;

(f) Condition of skin and body orifices, including rashes and infestations; and

(g) Disposition and referral of prisoners [~~residents~~] to qualified medical personnel on an emergency basis.

(10)[~~(9)~~] Medical, dental, and psychological care for prisoners [~~residents~~] shall be provided in accordance with KRS Chapter 441.[~~(10) At least one (1) center staff member per shift shall be trained in first aid procedures including CPR.~~]

(11) Medical research shall not be permitted on any prisoner [~~resident~~] in the center.

(12) Access to the prisoner's [~~resident's~~] medical file shall be controlled by the medical authority and the jailer. [~~The physician-patient privilege shall apply to the medical record.~~] The medical record shall be separate from custody and other administrative records of the center.

(13) The jailer or designee shall notify the coroner, if a prisoner dies while in the jail's custody, to allow for a postmortem examination pursuant to KRS 72.025. [~~In accordance with KRS 72.025, a postmortem examination shall be conducted on all residents who die while in the custody of the jailer.~~

~~(14) All center staff, or contract staff who administer medications to residents shall be trained in the proper procedures as outlined in the Policy and Procedures Manual.~~]

(14)[~~(15)~~] The center shall have first aid kits available at all times.

(15)[~~(16)~~] If a urine surveillance program is in effect there shall be written procedures for carrying out the program

Section 2. Medical Transfers pursuant to KRS 441.560. (1) A jailer may request that a prisoner [~~resident~~] be transferred to the department for necessary medical treatment and care if the prisoner [~~resident~~]:

(a) Is injured;

(b) Is pregnant;

(c) Becomes sick or ill;

(d)1. Is severely and persistently mentally ill; and

2. Is presenting an imminent risk of harm to self or others; or

(e) Requires specialized medical care or long-term medical care which is not available at the local jail.

(2) The transfer request shall be submitted to the Classification Branch [~~commissioner~~] in writing and shall contain the following information:

(a) Prisoner's [~~resident's~~] name;

(b) Prisoner's [~~resident's~~] Social Security number;

(c) County where currently housed;

(d) Inmate number;

(e) Pending charge or conviction and whether felony or misdemeanor;

(f) Estimated sentence or time to serve;

(g) Whether the prisoner [~~resident~~] has insurance or not;

(h) Whether the prisoner [~~resident~~] is indigent or not;

(i) Justification for medical transfer;

(k) Whether the care is necessary or not;

(l) Any conflict reports; and

(m) Relevant attachments such as:

1. Copy of prisoner's [~~resident's~~] insurance card;

2. Doctor's report;

3. Incident report;

4. Citation;

5. Booking information;

6. Preexisting medical records; or

7. Current medication.

(3) If a prisoner [resident] is approved for transfer to the department, pursuant to KRS 441.560 [~~as a catastrophic medical prisoner~~], the jail shall provide the following, unless already provided with the transfer request:

(a) All medical information;

(b) Current medication in proper container;

(c) Booking information;

(d) Incident reports;

(e) Current citation;

(f) Classification information;

(g) Conflict reports;

(h) Any additional pertinent information; and

(i) Custody receipt.

(4) If a prisoner [~~resident~~] is approved for transfer to the department pursuant to KRS 441.560, the prisoner [~~as a catastrophic medical prisoner, the resident~~] shall be transported by the department.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum standards to provide proper medical services in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum medical services requirements for restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum medical services requirements for restricted custody centers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It requires that the medical authority be a licensed practical nurse (LPN), a higher level of licensed nurse, a licensed medical doctor, or licensed doctor of osteopathy and allows the use of tele-medicine technology. Training requirements were deleted to be moved to a new training regulation in the Chapter. The revisions standardize terms used within the Chapter. Changes were made to follow the requirements of KRS 72.025 for post mortems.

(b) The necessity of the amendment to this administrative

regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It ensures proper medical services in restricted custody centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The jail will need to review its current requirements for its medical authority to meet the minimum requirements set in the regulation and may look at using telemedicine technology.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs for the medical authority may increase if the current medical authority for the jail is below the minimum standards set in the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A safer facility with proper medical services.

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

(a) Initially: A specific figure is not known and may vary among the jails. See (4)(b).

(b) On a continuing basis: A specific figure is not known and may vary among the jails. See (4)(b).

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted 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: Funding may need to increase depending on the jail or it may still be covered by the funds paid by the Department. See (4)(b).

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is only a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:100. Food services.

RELATES TO: KRS 441.055
STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes procedures for the delivery of proper food services in restricted custody centers.

Section 1. Procedures. (1) The center shall comply with KRS 217.280 through 217.390 and 902 KAR 45:005.

(2) The jailer shall provide adult prisoners [~~residents~~] with a nutritionally adequate diet containing at least 2,400 calories per day.

(3) The jailer shall provide for religious diets in accordance with 501 KAR 3:130 after review and approval of a religious authority.

(4) The jailer shall provide for medical diets if prescribed by a medical authority.

(5) The center shall maintain accurate records of all meals served.

(6) Food shall not be used for disciplinary purposes.

(7) A nutritionist or dietician shall approve the nutritional value of the center menu on an annual basis. (8) Jail personnel [~~A staff member~~] shall directly supervise all food prepared within the center.

(9) All food shall be served under the direct supervision of jail personnel [~~a staff member~~].

(10) The center shall have sufficient cold and dry food storage facilities if food is prepared in the center.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of

intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum standards for food services in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum standards for food services in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards for food services in restricted custody centers.

(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 specifies that a local jailer shall provide an adequate diet containing at least 2400 calories per day and standardizes terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It clarifies the minimum 2400 calorie diets for prisoners.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A jailer will have to provide a minimum of 2400 calories per day.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.'

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Inmates will receive an adequate daily calories.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding should be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation..

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is only a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them. The Department will experience currently unknown staff costs in consultations, which will depend on the number of requests and the extent of consultation needed.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:110. Classification.

RELATES TO: KRS 441.055

STATUTORY AUTHORITY: KRS 13A.350, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for detention facilities. This administrative regulation sets forth the procedure for the classification of prisoners [~~residents~~].

Section 1. Procedures. (1) Each center shall develop an appropriate prisoner [~~resident~~] classification system, which shall be included in the center's [~~facility's~~] written policy and procedure manual.

(2) The classification system shall:

(a) Establish guidelines for admission to the center and for transfer to the jail from the center;

(b) Provide for the separation of male and female prisoners;

(c) Provide for a program evaluation of each prisoner by jail personnel whenever there is a change in the prisoner's status; and

(d) Prohibit discrimination or segregation based on race, color or national origin.

(3) Each center shall establish a procedure for an appeal by the prisoner of his classification.[~~The center shall establish guidelines for admission to the facility and a procedure for transfer to the jail from this facility~~.

~~(3) The resident classification system shall provide for the separation of male and female residents.~~

~~(4) Program evaluation of each resident by a staff no less than once per month and, whenever there is a change in the resident's status.~~

~~(5) The classification system shall prohibit discrimination or segregation based on race, color or national origin.~~

~~(6) There shall be a procedure for an appeal by the resident of his classification.~~]

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum standards for the classification of prisoners in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes classification standards for prisoners in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes classification standards for prisoners in restricted custody centers.

(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 standardizes terms used in the Chapter and requires the classification system to have an appeal process for prisoners. It revises the requirement for program evaluation and makes language changes to comply with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It requires an appeal process for classifications.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The restricted custody center will have to establish a classification appeal process if it does not already have one.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Clarifies the appeal process for prisoners.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding should be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties,

fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is only a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them. The Department will experience currently unknown staff costs in consultations, which will depend on the number of requests and the extent of consultation needed.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:120. Admission; searches and release.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes admission, search, and release procedures for restricted custody centers.

Section 1. Policy and Procedure. Each center shall develop written admission, orientation, and release procedures to be included in the center's policy and procedure manual.

Section 2. Admission. (1) Jail personnel [~~The center staff~~] shall ensure that each prisoner is transferred under proper legal authority by a duly authorized officer.

(2) Prisoner records shall be delivered to the center at the time of admission. The admitting jail personnel [~~officer~~] shall make certain that all required forms are complete and that information is current.

Section 3. Searches. (1) Jail personnel [~~The center staff~~] shall conduct a search of each prisoner and his possessions upon admission.

(a) Each prisoner shall be searched for contraband in a manner as responsible jail personnel [~~staff~~] reasonably determine is necessary to protect the safety of fellow prisoners, jail personnel [~~staff~~] and institutional security. The search shall be conducted in a private area and in a manner which protects the prisoner's dignity to the extent possible in that particular center.

(b) A prisoner may be strip searched only on reasonable suspicion that is based upon the existence of objective information that may predict the likelihood of the presence of a weapon, drugs, or other item of contraband concealed on a particular prisoner. Reasonable suspicion shall be based upon one (1) or more of the following:

1. A current offense involving felony violence, drug charges, or fugitive status;

2. A criminal history of offenses involving the use of a weapon or the possession of contraband;

3. Institutional behavior, reliable information, or history that indicates possession or manufacturing of contraband, the refusal to submit to a clothed pat down search, or a clothed pat down search reveals the possession of contraband;

4. Contact with the public by a contact visit, court appearance that takes place in an area to which the public may have access, or after transport from or through an area to which the public may have access; or

5. The court has ordered commitment to custody after arraignment, conviction, sentencing, or other court appearance and the prisoner was not in custody prior to the court appearance.

(c) The jailer shall require that a strip search or body cavity search shall be documented. Documentation shall include:

1. Date and time of search;

2. Name of prisoner;

3. Name of person conducting search;

4. Type of search; and

5. Result of search.

(d) A strip search shall be conducted by jail personnel [~~a staff person~~] of the same sex as the prisoner, and in a private area.

(e) Probing of body cavities shall:

1. Not be done unless there is reasonable suspicion to believe that the prisoner is carrying contraband in a body cavity; and

2. Be conducted in a private location, under sanitary conditions, by a licensed medical professional, acting within his statutory scope of practice.

(2) Each center shall develop written policies and procedures, specifying the personal property that a prisoner may retain in his possession.

(a) Cash or personal property taken from a prisoner upon admission shall be listed by complete description on a receipt form, and securely stored pending the prisoner's release. The receipt shall be signed by the receiving jail personnel [~~officer~~] and the prisoner.

(b) Personal property released to a third party shall have the prisoner's signature of approval and the signature receipt of the third party.

Section 4. Orientation. (1) The prisoner shall sign to indicate if he has received an oral and a written copy of the prisoner orientation information. This document shall be placed in the prisoner's file. Special assistance shall be given to any illiterate or non-English speaking prisoner.

(2) The orientation shall provide the prisoner with information regarding his confinement, including the following:

(a) Information pertaining to rising and retiring, meals, mail procedures, work assignments, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the prisoner's confinement;

(b) Rules of prisoner conduct established pursuant to 501 KAR 7:060, Section 1(3);

(c) Disciplinary procedures;

(d) Information regarding work, educational and vocational training, counseling, and other social service programs;

(e) Procedures for making a request or registering a complaint with the center's jail personnel [~~staff~~] or department personnel. Prisoners shall follow the grievance procedure and attach copies of the grievance forms if requesting a review by the Department of Corrections.

Section 5. Release. (1) Written legal authorization shall be required prior to the release or removal of a prisoner from confinement.

(2) When any prisoner is released or removed for any legal purpose to the custody of another, the identity of the receiving authority shall be verified.

(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the prisoner is released or removed.

(4) Prior to the release or removal of a prisoner, the receiving authority shall sign an authorized release form.

(5) Before jail personnel releases a prisoner to an out-of-state jurisdiction, jail personnel shall consult with the appropriate prosecutorial office in the county.

(6) Property, not legally confiscated or retained, receipted from the prisoner upon admission shall be returned to the prisoner at the time of release.

(7) Each prisoner shall sign a receipt for property returned at the time of release.

(8) A complaint regarding property returned shall be submitted in writing with specific details within twenty-four (24) hours from the time of release.

Section 6. Transfer. (1) The jailer shall develop policy and procedure to determine the conditions under which a prisoner becomes ineligible to remain at the restricted custody center [~~facility~~] and shall be transferred to the secure jail.

(2) A prisoner transferred to the secure jail shall be accompanied by:

(a) An incident report specifying the reasons for the transfer;

(b) The prisoner's record; and

(c) The prisoner's personal property.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum standards for admission, search, and release procedures in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum standards for admission, search and release procedures in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards for admission, search and release procedures in restricted custody centers.

(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 standardizes terms used in the Chapter.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It standardizes terms used in the Chapter.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Clarifies terms.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is only a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative

regulation.
Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:130. Prisoner programs; services.

RELATES TO: KRS 441.055, 441.125, 532.100
STATUTORY AUTHORITY: KRS 441.055, 532.100(4)(c)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~which elect to~~] house state prisoners. This administrative regulation establishes procedures for prisoner programs and services.

Section 1. Programs. (1) Written policy and procedure shall provide that prisoner programs and services shall be available and include social services, religious services, recreation and leisure time activities and library services.
(2) Prisoners who perform work as authorized by KRS 441.125 may receive rewards in the form of sentence reductions or other privileges, if granted by the proper authority.
(3) Written policy and procedures shall establish guidelines for prisoners as to acceptable means of transportation to and from work, school and programs.
(4) There shall be written procedures for the verification and monitoring of the prisoner's employment status. A written schedule shall be maintained for program release to include time of departure, destination, telephone number and address of program location and time of return. Periodic monitoring of a prisoner's adherence to the approved schedule shall occur.
(5) Written procedures shall specify the monetary amount of reimbursement for room and board at the center [~~facility~~] by the prisoner and the process by which these fees shall be collected and used. Accurate records of receipts shall be maintained.

Section 2. Religious Programs. Written policy and procedure shall ensure the constitutional rights of prisoners to voluntarily practice their own religious activities, subject to those limitations necessary to maintain the order and security of the center.

Section 3. Recreation Programs. Written policy and procedure shall provide all prisoners with the opportunity to participate in an average of one (1) hour of recreational activity per day. Recreation programs may include board games, arts and crafts, radio and television, or other activities designed to relieve idleness and boredom.

Section 4. Volunteers. The policy and procedure manual shall establish guidelines for the selection and use of volunteers in the center [~~facility~~].

Section 5. Prisoner Programs and Services. (1) On-the-job training (OJT) work programs. State prisoners shall be provided the opportunity to participate in OJT work programs in accordance with KRS 441.125. State inmates who have an approved custody level shall be allowed to work on community service projects outside the jail if authorized by the jailer.
(2) Education programs. State prisoners shall be provided the opportunity to attend adult basic education programs or to pursue a general educational development (GED) diploma.
(3) Substance abuse programs. State prisoners shall be provided the opportunity to participate in substance abuse programs including Alcoholics Anonymous (AA) or Narcotics Anonymous (NA). State prisoners who have been determined to have substance abuse problems shall be referred to outpatient treatment available in the community. State prisoners, who are in need of extensive substance abuse treatment and have been referred by the Division of Mental Health, shall be allowed to participate in the substance abuse program (SAP), if space is available.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman
APPROVED BY AGENCY: April 11, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:
CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes minimum standards for prisoner programs and services in restricted custody centers.
(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.
(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum standards for prisoner programs and services in restricted custody centers as required by KRS 441.055.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards for prisoner programs and services in restricted custody centers.
(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 standardizes terms used in the Chapter.
(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).
(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).
(d) How the amendment will assist in the effective administration of the statutes: It standardizes terms used in the Chapter.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is only a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:140. Prisoner rights.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails, that [~~elect to~~] house state prisoners. This administrative regulation establishes procedures to ensure the rights of prisoners in restricted custody centers.

Section 1. Policy and Procedure. (1) Each center shall have a written statement of prisoner rights which shall address:

(a) Access to court;

(b) Access to attorney;

(c) Mail;

(d) Telephone;

(e) Grievance procedure;

(f) Search and seizure;

(g) Disciplinary procedure;

(h) Racial segregation;

(i) Medical care;

(j) Counseling, if available; and

(k) Religion.

(2) The statement of prisoner rights shall be made available to all inmates being assigned to general housing units. The statement of prisoner rights may be posted in a conspicuous place, provided in hard-copy format or provided through close-circuit cable television. [~~The statement of prisoner rights shall be posted in a conspicuous place in the booking and living areas of the center and a copy shall be made available to the prisoner as soon after assignment as possible, and upon admission, the prisoners shall sign that they have received a written copy of the prisoners' rights.~~]

(3) The jailer shall not prohibit a prisoner's right of access to the judicial process.

(4) The jailer shall ensure the right of each prisoner to have confidential access to his attorney and his authorized representative.

(5) The jailer shall have a written policy and procedure that defines the center's visitation rules and administrative regulations, which shall include:

(a) A schedule identifying no fewer than two (2) visiting days each week, one (1) of which shall be during the weekend;

(b) At least one (1) visit per week per prisoner shall be allowed except if a prisoner has been assessed a disciplinary penalty for an infraction of rules governing visitation;

(c) A visit shall not be less than fifteen (15) minutes;

(d) Two (2) or more persons permitted to visit at the same time shall count as a single visit; and

(e) Children, if accompanied by an adult, shall be permitted to visit a prisoner.

(6) Attorneys, clergy, and medical personnel shall be permitted to visit a prisoner at reasonable hours other than during regularly scheduled visiting hours and shall not count as an allotted visit.

(7) Each visitor shall register and show proper photo identification before admission and shall be denied admission for refusal to register, refusal to consent to search, or for a violation of the visitation rules established pursuant to subsection (5) of this section or established in subsection (6) of this section.

(8) A prisoner shall not be restricted in regard to whom he may have as a visitor, unless the jailer determines to exclude the visitor on the basis of one (1) or more of the following conditions:

(a) The visitor:

1. Represents a clear and present danger to security;

2. Has a past history of disruptive conduct at the center;

3. Is under the influence of alcohol or drugs;

4. Refuses to submit to a search; or

5. Refuses to show proper identification; or

(b) The prisoner refuses the visit.

(9) Except for visitors pursuant to subsection (6) of this section, jail personnel [~~the jail staff~~] may monitor and record visitor and inmate conversation for security reasons. Notification shall be posted in a conspicuous location in the visiting areas.

Section 2. Mail. (1) The jailer shall have a written policy and procedure for receiving and sending mail that:

(a) Protects prisoners' personal rights; and

(b) Provides for security practices consistent with the operation

of the center.

(2) A prisoner shall be allowed to correspond with anyone if the correspondence does not violate any state or federal law. Caution shall be taken to protect prisoner rights in accordance with court decisions regarding correspondence. The jailer may enact a policy prohibiting the sending or receipt of prisoner-to-prisoner mail. The policy shall permit the jailer discretion to grant the privilege.

(3) Incoming mail may be opened and inspected for contraband prior to delivery. Mail received from the court, an attorney of record, or a public official may be opened and inspected only in the presence of the prisoner.

Section 3. Telephone. (1) Written policy and procedure shall permit each prisoner to complete at least one (1) telephone call each week. The expense incurred for a call shall be borne by the prisoner or the party called.

(2) If calls are monitored, the prisoner shall be notified.

(3) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

Section 4. Religion. (1) Each prisoner shall be:

(a) Granted the right to practice his religion within limits necessary to maintain institutional order and security; and

(b) Afforded an opportunity to participate in religious services and receive religious counseling within the center.

(2) A prisoner shall not be required to attend or participate in any religious service or discussion.

Section 5. Access to Programs. The jailer shall ensure each prisoner equal access to programs and services, if the security and order of the center are not jeopardized.

Section 6. Grievance Procedure. The jailer shall have a written prisoner grievance procedure. The procedures shall include provisions for:

(1) A response to each written grievance [~~shall be made~~] within ten (10) days;

(2) Equal access for each prisoner;

(3) A guarantee [~~Guarantee~~] against reprisal; and

(4) Resolving legitimate complaints.

Section 7. Disciplinary Rights. Each center shall have a written policy and procedure for maintaining discipline, consistent with constitutional requirements for due process.

Section 8. Medical. Each prisoner shall be afforded access to necessary medical care.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures to ensure the rights of prisoners in restricted custody centers.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum standards for prisoner's rights in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum standards for prisoner's rights in restricted custody centers.

(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 clarifies prisoner rights shall be made available to all inmates being assigned to general housing units. The statement of prisoner rights may be posted in a conspicuous place, provided in hard-copy format or provided through close-circuit cable television.

(b) The necessity of the amendment to this administrative regulation: To revise the minimum standards as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It clarifies prisoner's rights in restricted custody centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 55 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 3,644 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: It requires the jails to post prisoner rights conspicuously, provide a hard copy, or provide them through closed circuit television.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Ensure prisoners understand their rights.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation estab-

lishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 13:010. Life safety issues.

RELATES TO: KRS 67.900, 198B.650-198B.689, 217.280-217.390, 441.005, 441.045, 441.055, 441.560, 532.100

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055, 441.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum health and life safety standards for jails that do not [~~elect to~~] house state prisoners. This administrative regulation sets forth procedures to provide protection for basic health and life safety in jails that do not house state prisoners.

Section 1. Definitions. (1) "Department" is defined in KRS 441.005(5).

(2) "Governing authority" means a county fiscal court, urban-county government, charter county government, consolidated local government, unified local government or regional jail authority.

(3) "Jail" or "Life Safety Jail" means any county jail and correctional or detention facility, including correctional facilities defined in KRS 67B.020, operated by and under the supervision of a governing authority [~~any county, regional jail authority, city, or urban-county government~~] that does not house state prisoners pursuant to KRS 532.100.

(4) "Jail personnel" is defined in KRS 441.005(6). (5)[~~(2)~~] "Medical authority" means the person or persons licensed [~~and certified~~] to provide medical care to prisoners in the jail's custody.

Section 2. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of two (2) jail personnel [~~staff members~~], excluding jail personnel designated for communication [~~staff~~]. If requested by the jailer or governing authority [~~fiscal court~~], the department [~~of Corrections~~] may conduct a staffing analysis.

(2) Each jail shall be required to provide the Department [~~of Corrections~~] with a weekly population update.

(3) If a female prisoner is lodged in the jail, the jail shall provide a female deputy to perform twenty-four (24) hour awake supervision.

(4) Qualifications. Jail personnel [~~Security employees~~] shall be at least twenty-one (21) years of age.

(5) Compensation. Each employee shall receive a wage at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies.

(6) Males and females shall be housed separately.

Section 3. Physical Plant. (1) Square footage living space requirement for jails shall be the same as required in 501 KAR 3:050.

(2) All furnishings in the jail shall be noncombustible and nontoxic as approved by the department [~~of Corrections~~].

(3) Kitchen. The purpose of this area shall be to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:

(a) Compliance with standards of the Retail Food Code, 902 KAR 45:005;

(b) Commercial type stoves and refrigeration units; and

(c) Walls, floors, and decks that are approved fire-rated masonry, concrete, or steel construction.

(4) Gauges, indicators, and alarms shall be located in an area monitored by jail personnel [~~staff~~].

(5) The jail shall provide ventilation to meet the air exchange requirements in the Kentucky Jail Construction and Renovation Standards incorporated by reference in 501 KAR 3:050.

(6) Electrical outlets if provided shall be ground-faulted or have ground-fault circuit breakers.

(7) All tools, toxic, corrosive, and flammable substances, and other potentially dangerous supplies and equipment shall be stored in a locked area not accessible to prisoners [~~which shall be secure~~].

(8) The jail shall have a procedure for immediate reporting and repairing any broken or malfunctioning key or lock.

(9) A set of duplicate keys shall be maintained in a separate, secure place.

(10) Each jail shall comply with the Kentucky Building Code, 815 KAR 7:120.

Section 4. Fire Safety. (1) Each jail shall have a written policy and procedure that specifies fire prevention [~~regulations and~~] practices to ensure the safety of prisoners, visitors, and jail personnel [~~staff~~]. These shall include, at a minimum:

(a) Fire [~~Provision for fire~~] emergency planning sessions for jail personnel [~~staff~~] at least quarterly;

(b) Maintaining written [~~Written~~] documentation of fire planning sessions and a written copy of the material taught;

(c) A fire safety inspection by the department [~~of Corrections~~] at least once a year;

(d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by jail personnel [~~staff~~] monthly;

(e) Being a tobacco-free facility [~~All life safety jails shall be deemed nonsmoking facilities~~]; and

(f) A written [~~Written~~] evacuation plan coordinated with local fire officials.

(2) Each jail shall have exits distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.

(3) Each jail shall have equipment necessary to maintain essential lights, power, HVAC, and communications in an emergency situation.

(4) In all areas where a prisoner may be confined, each jail shall have [~~be provided with~~] an emergency smoke evacuation system activated by smoke detectors and operated by emergency power.

(5) Each jail shall have an approved fire alarm and smoke detection system.

Section 5. Sanitation; Hygiene. (1) The jailer shall provide for the control of vermin and pests.

(2) The jail shall provide for both solid and liquid waste disposal.

(3) The jail shall have fresh air circulating within prisoner living and activity areas.

(4) All prisoners shall be provided with hot and cold running water in showers and lavatories.

Section 6. Medical Services. (1) Jail personnel [~~Deputy jailers and correctional officers~~] shall have current training in standard first aid equivalent to that provided [~~and C.P.R., as offered~~] by the American Red Cross, the American Heart Association, or an equivalent nationally recognized organization. New jail personnel shall receive training within their first year of employment.

(2) At least one (1) jail personnel per shift shall be trained and certified to perform CPR (Cardiopulmonary Resuscitation), equivalent to that provided by the American Red Cross, the American Heart Association or an equivalent nationally recognized organization. New jail personnel shall receive certification within their first year of employment.

(3)[~~(2)~~] The jail shall have first aid kits available at all times.

(4)[~~(3)~~] A health status (including current medications, known allergies, and diet or other special medical needs) shall be completed on each prisoner during admission.

(5)[~~(4)~~] Each prisoner shall be afforded access to necessary medical care as in KRS 441.045.

(6) The medical authority shall be a licensed practical nurse (LPN), a higher level of licensed nurse, a licensed medical doctor, or licensed doctor of osteopathy. Tele-medicine technology may be used.

Section 7. Medical Transfers pursuant to KRS 441.560. (1) A jailer may request that a prisoner be transferred to the department [~~department~~] for necessary medical treatment and care if the prisoner:

(a) Is injured;

(b) Is pregnant;

(c) Becomes sick or ill;

(d)1. Is severely and persistently mentally ill; and

2. Is presenting an imminent risk of harm to self or others; or

(e) Requires specialized medical care or long-term medical care which is not available at the local jail.

(2) The transfer request shall be submitted to the Classification Brach [~~commissioner~~] in writing and shall contain the following information:

(a) Prisoner's name;

(b) Prisoner's Social Security number;

(c) County where currently housed;

(d) Inmate number;

(e) Pending charge or conviction and whether felony or misdemeanor;

(f) Estimated sentence or time to serve;

(g) Whether the prisoner has insurance or not;

(h) Whether the prisoner is indigent or not;

(i) Justification for medical transfer;

(k) Whether the care is necessary or not;

(l) Any conflict reports; and

(m) Relevant attachments such as:

1. Copy of prisoner's insurance card;

2. Doctor's report;

3. Incident report;

4. Citation;

5. Booking information;

6. Preexisting medical records; or

7. Current medication.

(3) If a prisoner is approved for transfer to the department as a [~~department as a catastrophic~~] medical prisoner, the jail shall provide the following, unless already provided with the transfer request:

(a) All medical information;

(b) Current medication in proper container;

(c) Booking information;

(d) Incident reports;

(e) Current citation;

(f) Classification information;

(g) Conflict reports;

(h) Any additional pertinent information; and

(i) Custody receipt.

(4) If a prisoner is approved for transfer to the department as a [~~department as a catastrophic~~] medical prisoner, the prisoner shall be transported by the department.

Section 8. Food Services. (1) The jail shall comply with KRS 217.280 to 217.390, 803 KAR 2:317, and 902 KAR 45:005.

(2) The jail shall provide prisoners with a nutritionally adequate diet containing at least 2,400 calories daily and jail menus shall be approved annually by a nutritionist or dietician.

(3) Prisoners shall receive three (3) meals per day, one (1) of which shall be hot. More than fourteen (14) hours shall not elapse between any two (2) meals.

(4) The jailer may elect to provide only two (2) meals on Saturdays, Sundays and holidays, provided that both meals still meet the minimum 2,400 calories per day. If the jailer elects to serve only two meals, the time requirement elapsing between meals shall be waived.

(5)[~~(4)~~] The jailer shall provide for medical diets if prescribed by the [~~a~~] medical authority.[~~(5) The jailer shall provide for religious diets in accordance with 501 KAR 3:130 after review and approval of religious authority.~~]

(6) The jailer shall maintain accurate records of all meals served.

(7) Food shall not be used for disciplinary purposes.

(8) Jail personnel [~~A staff member~~] shall directly supervise all food prepared within the jail.

(9) All food shall be served under the direct supervision of jail personnel [~~a staff member~~].

(10) The jail shall have sufficient cold and dry food storage facilities.

(11) The jailer or his designee shall inspect the food service area daily.

(12) Canteen food items purchased by prisoners may be stored and prepared in amounts that do not pose a threat to the health or security of the institution.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(2) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: May 06, 2011

FILED WITH LRC: April 11, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative

regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the protection of basic health and life safety issues in jails that do not house state prisoners (life safety jails).

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes procedures for the protection of basic health and life safety issues in jails that do not house state prisoners as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes the minimum standards required for the protection of basic health and life safety issues in jails that do not house state prisoners.

(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 defines "Department", "Governing Authority" and "Jail Personnel". It clarifies language for several provisions already in the regulation. It changes the facility from a non-smoking facility to tobacco free facility. It requires that new jail personnel receive CPR and first aid training within the first year of employment and at least one staff be trained in CPR. It states minimum requirements for the medical authority and allows tele-medicine technology. It also allows the jailer to serve two meals on Saturdays, Sundays and holidays, as long as the 2400 calorie a day requirement is met.

(b) The necessity of the amendment to this administrative regulation: To revise standards concerning life safety jails as part of the standard review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: The amendment adopts the Jails Standards Review Advisory Commission recommendations and revises the standards as part of the standard review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes: It revises the standards as recommended and makes changes to comply with KRS Chapter 13A.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 6 life safety jails and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 192 inmates in the life safety jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The life safety jail will need to need to revise its procedures to be a tobacco free facility. All new jail personnel will need to comply with training requirements within the first year and at least one staff needs to be trained in CPR. The jailer may choose to serve only two meals on Saturdays, Sundays and Holidays as long as the meals meet the 2,400 calorie requirement. The jail will need to review its current requirements for its medical authority to meet the minimum requirements set in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Training costs may increase if the jail was not already requiring first aid and CPR training for all new staff. The costs for the medical authority may increase if the current medical authority for the jail is below the minimum standards set in the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Better health and safety at life safety jails. Also, prisoners will receive necessary medical care in an appropriate setting.

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

(a) Initially: A specific figure is not known and may vary among the jails. See (4)(b).

(b) On a continuing basis: A specific figure is not known and may vary among the jails. See (4)(b).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Jail budgeted 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: Funding may need to increase depending on the jail. See (4)(b).

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all life safety jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and life safety jails.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055, 441.560.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

4. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(b) How much will it cost to administer this program for the first year? Training costs for the jail may increase if the jail was not already requiring first aid and CPR training for all new staff. The costs to the jail for the medical authority may increase if the current medical authority for the jail is below the minimum standards set in the regulation. A specific figure is not known and may vary among the jails.

(c) How much will it cost to administer this program for subsequent years? Approximately same as (c).

(d) Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Employment and Training
(Amendment)

787 KAR 1:070. Reasonable time for protesting claim.

RELATES TO: KRS 341.370(3), 341.530(3)

STATUTORY AUTHORITY: KRS 151B.020, 341.115, 341.370(3), 341.530(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.370(3) and 341.530(3) require the secretary to promulgate administrative regulations establishing what constitutes reasonable time within which an employer shall protest a claim by a former worker. This administrative regulation establishes the requirements for determining reasonable time.

Section 1. (1) Except as provided in Section 2 of this administrative regulation, the reasonable time referred to in KRS 341.370(3) or 341.530(3) shall not extend beyond fifteen (15)[~~ten (10)~~] days after the date of the first notice to the employer from the department that a claim has been filed.

(2) In computing this fifteen (15)[~~ten (10)~~] day period:

(a) The day following the date of mailing of the notice shall be considered the first day; and

(b) The date the employer's return notice is received by the department shall be determined as provided in 787 KAR 1:230.

Section 2. (1) If the employer is not the worker's most recent employer and has not received Form UI-412A as provided in 787 KAR 1:060, the reasonable time referred to in KRS 341.530(3) shall not extend beyond fifteen (15) days after the date of first notice to the employer from the department that a claim has been filed.

(2) In computing the fifteen (15) day period:

(a) The day following the date of mailing of the notice shall be considered the first day; and

(b) The date the employer's return notice is received by the department shall be determined as provided as 787 KAR 1:230.

WILLIAM MONTEROSSO, Executive Director

APPROVED BY AGENCY: May 13, 2011

FILED WITH LRC: May 13, 2011 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10 a.m. at the offices of the Office of Employment and Training, 275 E. Main Street, 2nd floor, Executive Director's Office, Frankfort, Kentucky 40621. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2011, 2011, 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 June 30, 2011. 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: William Monterosso, Executive Director, Office of Employment and Training, 275 East Main, 2C, Frankfort, Kentucky 40602, phone (502) 564-5331, fax (502) 564-7452.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: William Monterosso

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes what constitutes reasonable time within which an employer shall protest a claim for unemployment insurance benefits by a former worker.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the procedures for an employer to protest claims for unemployment insurance benefits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of KRS Chapter 341.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation specifies the requirements for an employer to protest an unemployment insurance claim by a former worker.

(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 increases the employer protest period by five days. Currently, the regulation states that an employer shall protest a claim within 10 days following the date of mailing the notice. This amendment would allow for protest to be received up to 15 days from the date of mailing the notice.

(b) The necessity of the amendment to this administrative regulation: HB 5 passed during the 2010 Extraordinary Session of the Kentucky GA encouraged the Education and Workforce Development Cabinet to amend administrative regulations to increase the employer protest period from ten to fifteen days after an unemployment insurance claim is filed. This amendment is necessary to provide service to employers. Currently if an employer wishes to protest a claim by a former worker it must be received within 10 days. This has been problematic for some employers who may have multiple office locations and/or corporate offices. Often, notices are not received by the proper location and must be routed internally by the employer. The additional protest period will ease the administrative burden for employers.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 341.115 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of KRS Chapter 341.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide a service to employers, allowing for more investigative time and administrative time for protesting a claim for unemployment insurance benefits.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 90,000 active employers in Kentucky. During CY 2010 over 350,000 claims for unemployment insurance benefits were filed. This change would provide an additional service to employers who have experienced a loss in administrative staff during this economic down turn.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: It will not be necessary for the unemployed worker or any employer to take steps to comply with this amendment. The Office of Employment and Training would need to provide technical resources to accommodate the necessary programming updates.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the unemployed worker or employer. The Office of Employment and Training will be responsible to funding the technical upgrades.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Employers will have additional time, if necessary, to complete any documents necessary to protest a claim for unemployment insurance benefits.

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

(a) Initially: It will be necessary that changes are made to the unemployment insurance processing system. These programming changes will be negligible in costs and absorbed in the course of normal operating expenses.

(b) On a continuing basis: There is no cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Unemployment insurance is entirely federally funded. Unemployment insurance administrative funds will be used to make the necessary programming changes.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There will be no fees necessary for this change. The unemployment insurance program is entirely federally funded and technical changes neces-

sary will be funded by unemployment insurance administrative funds.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish or increase any fees directly or indirectly.

(9) TIERING: Is tiering applied? This amendment deals with the reasonable time within which an employer shall protest a claim for unemployment insurance benefits by a former worker. The amendment will be applied uniformly to all individuals and entities and tiering is not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Education and Workforce Development Cabinet, Department of Workforce Investment, Office of Employment and Training, Division of Unemployment Insurance and other governmental entities with former employees who file a claim for unemployment insurance benefits

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 341.370, 341.530

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated with the implementation of this regulation for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated expended with the implementation of this regulation for subsequent years.

(c) How much will it cost to administer this program for the first full year? Implementation of this amendment will create no additional administrative costs in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Employment and Training
(Amendment)

787 KAR 1:090. Unemployed worker's reporting requirements.

RELATES TO: KRS 341.350, 341.360, 341.370, 341.380

STATUTORY AUTHORITY: KRS 151B.020, 341.115(1), 341.125(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of KRS Chapter 341. This administrative regulation establishes the registration and reporting requirements that an unemployed worker shall meet to draw benefits, the date when a claim shall be valid, the length of time a claim may be backdated, [~~and~~] the procedures for electronic, telephone, and mail claims, and random audits.

Section 1. Registration for Work. (1) An unemployed worker shall be registered for work with a state employment service before he shall be eligible to receive benefits. A registration shall be considered filed if the unemployed worker completes the registration process.

(2) When an unemployed worker completes an initial application for benefits or reopens a claim, he shall be assigned a group classification code A or B based upon his reemployment prospects.

(a) Group A shall consist of any worker who is unemployed and is not subject to definite recall within a period of twelve (12) weeks from the date of filing of the initial or reopened claim.

(b) Group B shall include any worker who is:

1. Unemployed and has definite return prospects with his last employer within a period of twelve (12) weeks from the date of filing of the initial or reopened claim;

2. Unemployed because of a labor dispute in the establishment where he has been employed; or

3. A member of a union which shall be responsible for securing future employment.

(3) During any benefit year, an unemployed worker shall be assigned a different group classification code if review of his reemployment prospects reveals that a different classification is appropriate.

(4) The completion of an initial application for benefits shall serve as work registration for any group "B" unemployed worker.

Section 2. Initial or Reopened Claims for Benefits. (1) In order for an unemployed worker to file an initial or reopened claim for benefits, he shall complete the Initial Claim Application, Form 401, by using:

(a) An internet claim registration through the Web site provided by the agency for that purpose at https://uiclaims.des.ky.gov/ebenefit/;

(b) A telephone claim registration through the call center provided by the agency for that purpose; or

(c) An in person claim registration by reporting to a state employment service office that provides unemployment insurance assistance.

(2) If any issues regarding the unemployed worker's eligibility as provided by KRS 341.350 or a potentially disqualifying circumstance as provided by KRS 341.360 or 341.370 are detected, a fact finding investigation shall be conducted during which the unemployed worker shall be responsible for:

(a) Providing picture identification and valid proof of the worker's Social Security number from the Social Security Administration; and

(b) Presenting all facts in support of the application.

(3) The initial or reopened claim shall be dated as of the first day of the week in which the unemployed worker completes the procedure established in subsection (1) of this section.

(4) Upon the presentation by the unemployed worker of reasons found to constitute good cause for failure to file at an earlier date, the secretary shall backdate the initial or reopened claim to the first day of the week in which the worker became unemployed, or the second calendar week preceding the date the worker filed, whichever is later.

Section 3. Claiming Weeks of Benefits. (1) Once an unemployed worker has filed an initial claim and established a benefit year, he shall claim his benefits on a biweekly basis by one (1) of the methods and within the time frames established in subsection (2) of this section.

(a) The unemployed worker shall claim either one (1) or both of the weeks of benefits.

(b) Except as provided in paragraph (c) [~~(d)~~] of this subsection, for every two (2) week period of benefits being claimed following the effective date of the initial or reopened claim, the unemployed worker shall claim his benefits during the calendar week following the second week of the period.

(c) Upon the presentation by the unemployed worker of reasons the secretary finds to be good cause for the failure of the worker to claim his benefits during the prescribed week, the secretary shall allow the worker to claim benefits for the two (2) calendar weeks preceding the date on which the worker claimed his bene-

fits. In this case the worker shall next be eligible to claim benefits for the two (2) calendar weeks following the weeks of benefits claimed late.

(2) Except as provided in subsection (3) of this section, the unemployed worker shall complete a claim for benefits:

(a) Through the Web site provided by the agency for that purpose at https://uiclaims.des.ky.gov/ebenefit/, with the claim completed before midnight on the Saturday of the calendar week following the second week of the period claimed; or

(b) By telephone through the interactive voice response system provided by the agency for that purpose, with the claim completed between the hours of 2 p.m. and 9 p.m. Eastern Time on the Sunday, or between the hours of 7 a.m. and 7 p.m. Eastern Time on the Monday through the Friday of the calendar week following the second week of the period claimed.

(3)(a) The secretary shall direct an unemployed worker to claim benefits by mail if it is not possible for the worker to claim by either option provided in subsection (2) of this section due to:

1. Unavailability of those options for the type of benefits claimed;

2. Unavailability of those options due to technical problems; or

3. A physical or mental condition preventing the worker from using those options.

(b) A continued claim shall cover the week or weeks indicated on the Continued Claim Form.

(c) Any claim filed by mail shall be considered filed on the day it is deposited in the mail and postmarked as established in 787 KAR 1:230, Section 1(2).

(d) The provisions of this administrative regulation governing the dating and backdating of a continued claim shall also apply to a claim filed by mail, and unless the claim is filed within the prescribed time, it shall not be allowed.

Section 4. Employer Filed Claims. (1) An employer may file a claim on behalf of an unemployed worker if:

(a) The worker has definite recall rights within four (4) calendar weeks;

(b) The employer has a workforce of at least 100 workers at the time of the layoff;

(c) The employer submits the claim information in the required electronic format using the Mass Electronic Filing Cell Data and Formatting Guide; and

(d) Prior to the first time an employer files a claim on behalf of a worker, the employer submits a test sample of claim information and receives confirmation from the division that the information is in the required format prior to the date the period of unemployment will begin.

(2) The effective date of an employer filed claim shall be the first day of the week in which the period of unemployment began.

(3) An unemployed worker who does not file a continued claim for benefits established under an employer filed claim may file a new initial claim within the period of one (1) year from the effective date of the employer filed claim.

Section 5. Eligibility Review. The secretary may require an unemployed worker claiming benefits to report for the purpose of continued benefit eligibility review as a condition for payment of benefits. The requirement and interval for eligibility review shall be determined by:

(1) The worker's classification as established in Section 1(2) of this administrative regulation;

(2) The worker's individual employment and earning history; and

(3) The local labor market.

Section 6. (1) The secretary shall notify an unemployed worker if the secretary determines that the unemployed worker failed to file a claim for benefits or register for work within the specified time due to:

(a) The employer's failure to comply with 787 KAR Chapter 1;

(b) Coercion or intimidation exercised by the employer to prevent the prompt filing of a claim; or

(c) Failure by the division's personnel to discharge necessary responsibilities.

(2)(a) Except as provided in paragraph (b) of this subsection, an unemployed worker shall have fourteen (14) days after receipt of the notification required by subsection (1) of this section from the secretary within which to file a claim.

(b) A claim shall not be filed later than thirteen (13) weeks subsequent to the end of the actual or potential benefit year involved.

Section 7. (1) The secretary shall conduct random audits of claims. Each random audit shall include one or more of the eligibility requirements provided by KRS 341.350.

Section 8.[~~7.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The initial claim application "Form 401", revised 8/10;

(b) The "Continued Claim Form", revised 10/95; and

(c) "Mass Electronic Filing Cell Data and Formatting Guide", revised 03/07.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Director of the Division of Unemployment Insurance, 275 East Main Street, 2 CD, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM MONTEROSSO, Executive Director

APPROVED BY AGENCY: May 13, 2011

FILED WITH LRC: May 13, 2011 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 10:30 a.m. at the offices of the Office of Employment and Training, 275 E. Main Street, 2nd floor, Executive Director's Office, Frankfort, Kentucky 40621. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2011, 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 June 30, 2011. 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: William Monterosso, Executive Director; Office of Employment and Training, 275 East Main, 2C; Frankfort, Kentucky 40602, phone (502) 564-5331, fax (502) 564-7452.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: William Monterosso, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the registration and reporting requirements that an unemployed worker shall meet to draw benefits, the date when a claim shall be valid, the length of time a claim may be backdated, and the procedures for electronic, telephone and mail claims, and random audits.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish reporting requirements for unemployed workers while receiving unemployment insurance benefits as well as the authorization of random audits of claims.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of KRS Chapter 341.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will require the Office of Employment and Training to perform random audits of claims.

(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 will require the Office of Employment and Training to conduct random audits of claims.

(b) The necessity of the amendment to this administrative regulation: HB 5 passed during the 2010 Extraordinary Session of the Kentucky General Assembly encouraged the Education and Workforce Development to amend administrative regulations to institute random audits of job search efforts provided by claimants. This amendment is necessary to conduct the random audits of claims. The audit shall include one or more of the eligibility requirements provided by KRS 341.350

(c) How the amendment conforms to the content of the authorizing statutes: KRS 341.115 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of KRS Chapter 341.

(d) How the amendment will assist in the effective administration of the statutes: This amendment mandates the implementation of random audits. Included in the audit will be a review of one or more of the eligibility requirements provided by KRS 341.350.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Throughout CY 2010 there were approximately 350,000 claims for unemployment insurance benefits. Random audits of those claims will further ensure the integrity of the unemployment insurance program.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
It will not be necessary for the unemployed worker to take any steps to comply with this amendment. All audits will be conducted by the Office of Employment and Training.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the unemployed worker. The Office of Employment and Training will be responsible for funding the technical upgrades.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Division of Unemployment Insurance is responsible for maintaining the integrity of the Unemployment Insurance Trust Fund. A random audit of claims will further ensure benefits are properly paid to those individuals in compliance with the conditions of qualification for benefits, as defined in KRS 341.350.

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

(a) Initially: It will be necessary to create the audit criteria within the benefit application system. These programming changes will be negligible in costs and absorbed in the course of normal operating expenses.

(b) On a continuing basis: There is no cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Unemployment Insurance is entirely federally funded. Unemployment insurance administrative funds will be used to make the necessary programming changes.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There will be no fees necessary for this change. The unemployment insurance program is entirely federally funded and technical changes necessary will be funded by unemployment insurance administrative funds.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish or increase any fees directly or indirectly.

(9) TIERING: Is tiering applied? This amendment deals with the reporting requirements necessary for unemployed workers. The amendment will be applied uniformly to all individuals and tiering is not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Education and Workforce Development Cabinet, Department of Workforce Investment, Office of Employment and Training, Division of Unemployment Insurance

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 341.350, 341.380, 342.360, 341.370

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated with the implementation of this regulation for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated with the implementation of this regulation for subsequent years.

(c) How much will it cost to administer this program for the first full year? Implementation of this amendment will create no additional administrative costs in the first year.

(d) How much will it cost to administer this program for subsequent years? No additional cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None
Expenditures (+/-): None
Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Department of Workforce Investment
Office of Employment and Training
(Amendment)

787 KAR 1:210. Employer contribution rates.

RELATES TO: KRS 341.270, 341.272

STATUTORY AUTHORITY: KRS 151B.020, 341.115, 341.270(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulation necessary to administer KRS Chapter 341. KRS 341.270(3) requires the Secretary of the Education and Workforce Development Cabinet to determine the rate schedule for employer's contributions. This administrative regulation establishes the method by which the secretary shall publish the rate schedule in effect each year.

Section 1. Annual Employer Rate Notice. (1) On or before December 15 [~~Within the first calendar quarter~~] of each year, the Division of Unemployment Insurance, on behalf of the secretary, shall issue to each active employer liable to pay unemployment contributions for the next calendar [~~that~~] year a "Notice of Contribution Rate".

(2) The notice shall:

(a) Set forth the rate schedule determined by the secretary pursuant to KRS 341.270(3) to be in effect for the next calendar [~~that~~] year;

(b) Inform each employer of:

1. The rate applicable to the employer's account for the next calendar [~~that~~] year;

2. The tax, wage and benefit charge information regarding the

employer's account; and

3. The statutory provisions used to calculate and assign the rate in accordance with KRS 341.270 and 341.272; and

(c) Be issued in either paper or electronic format.

Section 2. Incorporation by Reference. (1) The "Notice of Contribution Rate (UI-29, Rev. 5/2011[~~2/02~~])" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Director of the Division of Unemployment Insurance, 275 E. Main Street, 2E, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM MONTEROSSO, Executive Director

APPROVED BY AGENCY: May 13, 2011

FILED WITH LRC: May 13, 2011 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2011 at 11:00 a.m. at the offices of the Office of Employment and Training, 275 E. Main Street, 2nd floor, Executive Director's Office, Frankfort, Kentucky 40621. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2011, 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 June 30, 2011. 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: William Monterosso, Executive Director; Office of Employment and Training, 275 East Main 2C, Frankfort, Kentucky 40602, phone (502) 564-5331, fax (502) 564-7452.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: William Monterosso, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the method by which the secretary shall publish the rate schedule in effect each year.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the method and timeline for notifying employers of their contribution tax rate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 341.115(1) authorizes the secretary to promulgate administrative regulation necessary to administration of KRS Chapter 341. KRS 341.270(3) requires the Secretary of the Education and Workforce Development Cabinet to determine the rate schedule for employers' contributions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will set the timeline and method required in issuing employers' contribution tax rates.

(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 will allow the employer to receive their contribution tax rate earlier. Currently, the regulation states the rate notice will be issued within the first calendar quarter of each year. The amendment will allow the Division to issue to employers their rate notice on or before December 15.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary due to statutory changes in HB 5 of the 2010 Extraordinary Session of the Kentucky General Assembly.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 341.115 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of KRS Chapter 341.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow more efficient and effective notification to employers of tax rates calculated in accordance with KRS 341.270.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 83,000 active contributory employer accounts in Kentucky. This change would provide earlier notification to these employers of their contribution tax rate. The Office of Employment and Training will be responsible for updating the current processing system to accommodate this.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Office of Employment and Training will need to provide technical resources to accommodate the necessary programming updates. The Division of Unemployment Insurance will be responsible for mailing the contribution rate notices by the prescribed deadline.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost associated to the employer. The Office of Employment and Training will be responsible for funding the technical upgrades.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The employer will receive notice of their contribution tax rate earlier.

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

(a) Initially: Changes will be necessary to the processing system. These programming changes will be negligible costs and absorbed in the course of normal operating expenses.

(b) On a continuing basis: There is no cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Unemployment Insurance is entirely federally funded. Unemployment insurance administrative funds will be used to make the necessary programming changes.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There will be no fees necessary for this change. The unemployment insurance program is entirely federally funded and technical changes necessary will be funded by unemployment insurance administrative funds.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish or increase any fees directly or indirectly.

(9) TIERING: Is tiering applied? This amendment establishes the method and timeline for the mailing of the annual Notice of Contribution Rate. The amendment will be applied uniformly to all contributory employers and tiering is not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only those employers who have elected to pay quarterly unemployment taxes will be impacted. Most elect to simply reimburse benefits paid out in lieu of paying quarterly taxes.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 341.270, 341.272.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency

(including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated with the implementation of this regulation for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated with the implementation of this regulation for subsequent years.

(c) How much will it cost to administer this program for the first full year? Implementation of this amendment will create no additional administrative costs in the first full year.

(d) How much will it cost to administer this program for subsequent years? No additional cost for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Code Enforcement
(Amendment)

815 KAR 35:060. Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060.

RELATES TO: KRS 164.772(3), 227A.010, 227A.060, 227A.100 [~~EO 2009-535~~]

STATUTORY AUTHORITY: KRS 227A.040(1), (8), 227A.060, 227A.100(9) [~~227A.100(9), EO 2009-535~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227A.040 and 227A.060 authorize the Office of Housing, Buildings and Construction to promulgate administrative regulations to establish a process for the licensing of electrical contractors, electricians, and master electricians. [~~EO 2009-535, effective June 12, 2009, reorganized the Office of Housing, Buildings and Construction as the Department of Housing, Buildings, and Construction, and established the commissioner, rather than executive director, as the head of the department.~~] This administrative regulation establishes the eligibility requirements and application procedures for the licensing of electrical contractors, electricians, and master electricians.

Section 1. Application Procedure. An applicant for licensure pursuant to KRS 227A.060 shall:

(1) Complete an application as required by Section 2 of this administrative regulation;

(2) Pay the application fee required by Section 3 of this administrative regulation;

(3) Provide verifiable evidence of experience and training as specified in Section 4 of this administrative regulation; and

(4) Provide evidence of passage of the examination required by Section 5 of this administrative regulation.

Section 2. Application Requirements. (1) The applicant shall complete an application form, either Electrical Contractor's License Application, Form BCE-EL-2, or Electrical License Application Form, [~~Form~~] BCE-EL-3, which shall include the following information:

(a) The applicant's name;

(b) The applicant's home address;

(c) The applicant's business address;

(d) The applicant's home and business telephone numbers;

(e) The applicant's date of birth;

(f) The applicant's Social Security number or employer identification number;

(g) The applicant's email address;

(h) The licenses applied for;

(i) For master electrician or electrician, a narrative listing of the applicant's experience in the electrical industry, including:

1. Business name and address;

2. Job title; and

3. Supervisor's name;

(j) For master electrician or electrician, a listing of all approved training or apprenticeship programs the applicant has completed;

(k) A statement confirming that the applicant is not in default on any educational loan guaranteed by the Kentucky Higher Education Assistance Authority in accordance with KRS 164.772(3);

(l) A passport- sized color photograph of the applicant;

(m) For electrical contractor licenses, the name and license number of the master electrician who will be affiliated with the applicant; and

(n) For electrical contractor licenses, the name of the insurer providing the applicant's liability and workers' compensation coverage and the policy number of each coverage.

(2) An applicant for reciprocity shall:

(a) Comply with the requirements set forth in the reciprocity agreement between Kentucky and the state in which the applicant is licensed; and

(b) Submit a completed Reciprocity Electrical License Application, Form BCE-EL-4, which shall include:

1. A statement confirming that the applicant is not in default on any educational loan guaranteed by the Kentucky Higher Education Assistance Authority in accordance with KRS 164.772(3);

2. A passport-sized color photograph of the applicant;

3. For electrical contractor licenses, proof of compliance with the insurance and workers' compensation requirements established in Section 7 of this administrative regulation; and

4. A copy of the applicant's license from the participating state.

Section 3. Application, Renewal, Reinstatement, and Late Fees. (1) The application and renewal fees shall be:

(a) $200 for an electrical contractor's license;

(b) $100 for a master electrician's license; or

(c) Fifty (50) dollars for an electrician's license.

(2) Application, renewal, reinstatement, and late fees shall not be refundable.

(3) The reinstatement fee for any lapsed license pursuant to KRS 227A.100(4) shall be equal to the license renewal fee and shall be paid in addition to the license renewal fee.

(4) The late renewal fee shall be fifty (50) dollars. If all documents required to be submitted for renewal are postmarked on or before the last day of the renewal month, the filing shall be considered timely and a late fee shall not be assessed.

(5) Renewal fees for inactive licenses shall be one-half (1/2) the fee for an active license.

(6) The fee to return a license to an active status from an inactive status shall be the remaining one-half (1/2) renewal fee for that year.

Section 4. Verification of Experience. (1) An applicant shall submit verification of experience for licensure as a master electrician or electrician.

(2) Verification shall be submitted in the form of:

(a) Tax returns or other official tax documents that indicate the applicant's occupation or the nature of the applicant's business activities, including Federal Schedule C, Form W-2, Form 1099, or local occupational tax returns;

(b) A copy of a business license issued by a county or municipal government that did not issue electrical contractors, master electrician's, or electrician's licenses prior to June 24, 2003, if the business license indicates the applicant operated as an electrical contractor or worker;

(c) A sworn affidavit, on the affiant's letterhead, certifying that the affiant has personal knowledge that the applicant has worked as a master electrician or an electrician for at least one (1) of the following:

1. An electrical workers union;

2. A certified electrical inspector; or

3. An employer that employed the applicant as an electrician or a master electrician; or

(d)1. Records of a branch of the United States Armed Forces that indicate the applicant performed a function that primarily involved electrical work.

2. Experience gained while in the military shall be deemed to have been earned in Kentucky.

Section 5. Examinations. (1) An applicant for an electrical contractor's license, master electrician's license, or electrician's license shall pass an examination administered by an approved examination provider. A passing score shall be valid for a period of three (3) years.

(2) For an electrical contractor's license, an applicant that is a business entity shall designate a person to take the examination on behalf of the applicant. The designee shall be:

(a) An owner of the applicant;

(b) An officer of the applicant;

(c) A director of the applicant; or

(d) A full-time employee of the applicant.

(3)(a) If a person designated by an entity as provided in subsection (2) of this section leaves the employment or no longer maintains an interest in that entity, the entity shall designate another person who either:

1. Has passed the examination; or

2. Successfully passes the examination within thirty (30) days.

(b) Failure to have a designee that has passed the examination shall render the licensee no longer qualified to be licensed.

(4) Upon application by a testing agency, a national code group, or by an applicant for certification, the department may recognize another examination as equivalent to an examination administered by an approved examination provider. The person or group submitting the examination shall demonstrate that the examination covers the same material and requires the same level of knowledge as the approved examinations.

Section 6. Appeal Procedure. (1) An applicant denied a license may appeal the decision to the Commissioner of the Department of Housing, Buildings and Construction. The applicant shall submit written notice of the appeal to the Department of Housing, Buildings, and Construction within ten (10) business days of receiving notice that the license application has been denied.

(2) The appeal shall be conducted pursuant to KRS Chapter 13B by a hearing officer appointed by the Commissioner of the Department of Housing, Buildings, and Construction.

Section 7. Proof of Insurance. (1) An applicant for an electrical contractor's license shall provide proof of compliance with liability insurance requirements by providing an insurance certificate showing general liability insurance coverage of at least $500,000 issued by an insurer authorized to do business in Kentucky and naming the Department of Housing, Buildings, and Construction, Electrical Licensing, as the certificate holder.

(2) The applicant shall provide proof of workers' compensation insurance by providing:

(a) An insurance certificate from an approved insurance provider with the Kentucky Department of Insurance; or

(b) A notarized statement that the applicant is not required to obtain workers' compensation coverage and the reason why the coverage is not required.

(3) Electrical contractors shall require their liability and workers' compensation insurers to provide notice to the Department of Housing, Buildings, and Construction if:

(a) A policy is cancelled, terminated, or not renewed; or

(b) The policy limits are lowered.

(4) Electrical contractors shall advise the Department of Housing, Buildings, and Construction of a:

(a) Change in their insurance coverage, including cancellation or termination of any policy;

(b) Change in the insurer providing the coverage; or

(c) Changed circumstances that require the contractor to obtain coverage.

Section 8. Renewal Requirements. (1) A license shall be valid for one (1) year and shall be renewed on or before the last day of the licensee's birth month. For electrical contractor licenses issued to corporations, partnerships, or business entities without a birth month, the renewal month shall be the month the license was issued.

(2)(a) The Department of Housing, Buildings, and Construction shall issue an initial license to an applicant for a period of up to twenty-three (23) months and shall charge a pro rata initial license fee to reflect the actual term of the initial license. An initial license shall not [~~No initial license will~~] be issued for less than a twelve (12) month period.

(3) A licensee shall apply for license renewal on Electrical License Renewal Application, Form BCE-EL-5. [~~BCE-EL-5: (b) An initial license shall not.~~]

Section 9. Inactive License Status. (1)(a) A licensee may request that a license be placed in inactive status.

(b) A licensee shall not perform electrical work requiring a license if the license is inactive.

(2) An electrical contractor licensee in inactive status shall not be required to maintain liability insurance or provide proof to the Department of Housing, Buildings, and Construction of compliance with workers' compensation laws.

(3) A certified electrical inspector may be licensed as an electrical contractor, master electrician, or electrician, but shall maintain that license as inactive while having an active electrical inspector certification.

(4) Performing electrical work that requires a license while holding an inactive license shall be grounds for revocation or suspension of all electrical licenses and certifications held by the licensee.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form BCE-EL-2, "Electrical Contractor's License Application", March, 2007 edition;

(b) Form BCE-EL-3, "Electrical License Application", May 2011 [~~August 2009~~] edition;

(c) Form BCE-EL-4, "Reciprocity Electrical License Application," August 2009 edition; and

(d) Form BCE-EL-5, "Electrical License Renewal Application", August 2009 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings, and Construction, Electrical Licensing, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, Monday through Friday, 8 a.m. to 4:30 p.m.

JERRY T. LUNSFORD, Commissioner
ROBERT D VANCE, Secretary

APPROVED BY AGENCY: May 9, 2011

FILED WITH LRC: May 10, 2011 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2011, at 10 am, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405. Individuals interested in being heard at this hearing shall notify this agency in writing by June 17, 2011 (five working days prior to the hearing) of their intent to attend. The 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 June 30, 2011. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Dawn M. Bellis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, phone (502) 573-0365 ext. 144, fax (502)573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dawn M. Bellis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures and requirements for licensing of electrical contractors, electricians and master electricians under the provisions of 227A.060.

(b) The necessity of this administrative regulation: This amendment establishes the eligibility requirements and application procedures for the licensing of electrical contractors, electricians and master electricians for the issuance of licenses as required by 227A.060.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation conforms to the statutes by establishing the standards and procedures that are to be followed for the licensing of electrical contractors, electricians and master electricians.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the standards and procedures authorized by statutes in implementation of the requirements for licensing of electrical contractors, electricians and master electricians.

(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 brings the application and regulation into compliance with legislative amendment providing that 16-18 year olds may only gain electrical experience in non-hazardous electrical duties.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to reflect the limitation on electrical experience gained between the ages of 16 and 18.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227A.040 requires the Department to promulgate administrative regulations to create procedures governing the issuance of licenses to electrical contractors, master electricians and electricians. This amendment satisfies those statutory obligations.

(d) How the amendment will assist in the effective administration of the statutes: The amendment incorporates the restriction of electrical experience gained between 16th and 18th birthdays in compliance with legislative amendment passed during the 2011 Regular Session of the General Assembly.

(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 the Department of Housing, Buildings and Construction, the Division of Building Code Enforcement, Electrical Licensing Section, applicants for electrical licensure who gained experience between their 16th and 18th birthdays.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Department will be charged with confirming that applications meet applicable licensure requirements including appropriate experience.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no anticipated additional cost associated with this administrative regulation; this amendment merely employs the statutory limitations placed upon experience gained between 16th and 18th birthdays that is accepted as experience towards licensure.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will continue to gain applicable experience between the ages of 16 and 18 while being limited to non-hazardous duties to ensure safety.

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

(a) Initially: No additional costs anticipated to implement.

(b) On a continuing basis: No additional costs anticipated to implement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Existing agency funds of the Electrical Licensing Section.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Not applicable.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applicable to this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Electrical Licensing Section will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 227A.040(1), 227A.040(8), 227A.060, and 227A.100(9).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation establishes no revenues nor creates expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year. Not applicable.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years. There are no anticipated increases or decreases in revenue based upon this clarification of acceptable experience for 16-18 year olds seeking electrical licensure.

(c) How much will it cost to administer this program for the first year? The program's costs will remain stable.

(d) How much will it cost to administer this program for subsequent years? The program's costs will remain stable.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(Amendment)

815 KAR 35:100. Electrical continuing education procedure.

RELATES TO: KRS 227A.100(7), (9)

STATUTORY AUTHORITY: KRS 227A.040(8), 227A.100(7)

NECESSITY, FUNCTION AND CONFORMITY: KRS 227A.040(8) authorizes the Department of Housing, Buildings and Construction to promulgate administrative regulations to establish procedures to govern the licensure of electricians and electrical contractors. KRS 227A.100(7) requires the department to promulgate an administrative regulation to establish requirements relating

to continuing education, including program content and qualifications of providers. This administrative regulation establishes the continuing education procedures for master electricians, electricians, and electrical contractors.

Section 1. Proof of Continuing Education Requirements. (1) Prior to license renewal, each licensee shall present proof on Form BCE-EL-1, Electrical License Renewal Proof of Continuing Education, or its electronic equivalent, of completion of at least six (6) hours of continuing education for each license held during the immediately preceding twelve (12) months.

(2) The proof shall be signed by the licensee and certified by the provider of the continuing education course.

Section 2. Continuing Education Course Requirements. (1) Continuing education for master electrician and electrician licensees shall relate to the electrical code incorporated by reference into 815 KAR 7:120, Kentucky Building Code; 815 KAR 7:125, Kentucky Residential Code; and 815 KAR 10:060, Standards of Safety; or to safety practices and procedures.

(2) Continuing education for electrical contractors shall relate to business and employment law, business practices, and safety practices and procedures.

(3) A maximum of two (2) of the six (6) hours of continuing education required for electricians, master electricians, and electrical contractors may be safety practices and procedures.

Section 3. Continuing Education Providers. (1) Continuing education shall be provided by:

(a) One (1) of the organizations listed in KRS 227A.100(7); or

(b) An individual or organization recommended by the Electrical Advisory Committee and approved by the Department of Housing, Buildings and Construction pursuant to subsection (7) of this section.

(2) Each continuing education course provider shall register with the department. Registration shall be valid for two (2) years from the date of issuance.

(3) To register, an applicant shall complete and submit Form BCE-EL-8, Electrical License Continuing Education Provider Registration.

(4) The department shall maintain a list of approved continuing education providers.

(5) A course provider shall report to the department any change in registration information within thirty (30) days of the change taking effect.

(6) In addition to the provider registration requirements, an applicant for certification as a continuing education provider shall submit the following information to the Department of Housing, Buildings and Construction:

(a) Syllabus of courses to be offered;

(b) Times and dates that courses will be offered;

(c) Location where courses will be offered;

(d) Availability of courses to the general public;

(e) Fees to be charged for the courses;

(f) Identity and qualifications of teachers; and

(g) Attendance verification procedures.

(7) The Department of Housing, Buildings and Construction shall certify the applicant if:

(a) The applicant can reliably provide continuing education;

(b) The applicant has verified that an accurate certification of attendance at all courses offered shall be provided to the department.

1. If provided by e-mail or fax, certification shall be received by the department within five (5) business days of completion of the class.

2. If submitted by first class mail, certification shall be postmarked within five (5) business days of completion of the class; and

(c) All courses offered by the applicant shall be taught by a person with sufficient technical knowledge of the subject matter.

(8) Certification shall be denied, suspended, or revoked if the Department of Housing, Buildings and Construction determines, after an opportunity to be heard pursuant to KRS Chapter 13B, that the individual or organization no longer meets the requirements of this section.

(9) A continuing education provider shall notify the Department of Housing, Buildings and Construction of all courses to be offered at least thirty (30) days prior to the courses' scheduled dates.

(a) The notice shall include the date, time, location and topic of the course and the fee to be charged, if any.

(b) The Department of Housing, Buildings and Construction shall maintain a list of all courses to be offered and make the list available to the public.

(10) For classes open to the public, continuing education providers shall not establish a minimum number of attendees required to hold a class.

(11)(a) Except as provided in paragraph (b) of this subsection, a provider shall notify the Department of Housing, Buildings and Construction, as well as those who have registered to attend, a minimum of one (1) week prior to the cancellation of any class.

(b) A class may be cancelled within one (1) week of the scheduled class date if necessary due to a natural disaster or inclement weather. Reasonable steps shall be taken to inform the registered attendees and the department of the cancellation and reason for the cancellation.

(12) Upon written request by a licensee, the Department of Housing, Buildings and Construction shall recognize continuing education credit, courses attended in another state if the material covered complies with Section 2 of this administrative regulation.

Section 4. Continuing Education Provider Revocation. The department shall revoke continuing educator provider approval if the department determines that a provider:

(1) Obtains, or attempts to obtain, registration or course approval through fraud, false statements, or misrepresentation;

(2) Does not provide complete and accurate information in either the initial registration or in notification of changes to information;

(3) Does not offer one or more classes annually;

(4) Advertises a continuing education course as being approved by the department prior to receiving approval;

(5) Fails to maintain continuing education provider qualifications; or

(6) Fails to comply with the requirements of Section 3 of this administrative regulation.

Section 5. Certified Electrical Inspectors. A certified electrical inspector holding an inactive master electrician or electrician license may apply six (6) hours of the continuing education required by 815 KAR 35:015, Section 8(1), to the required six (6) hours for a master electrician or electrician's license if the hours are not used to satisfy the continuing education requirement for electrical contractors.

Section 6. [~~Section 5.~~] Inactive License. As a condition of reactivation of an inactive license, a licensee shall present proof of completion of at least six (6) hours of continuing education from the prior twelve (12) months. Prior to activating an inactive license, the license holder shall provide proof that the license holder has completed six (6) hours of continuing education for each year the license has been inactive.

Section 7. [~~Section 6.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Electrical License Renewal Proof of Continuing Education", Form BCE-EL-1, December 2010; and

(b) "Electrical License Continuing Education Provider Registration", Form BCE-EL-8, December 2010.

(2) This material may be inspected, copied, or obtained, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort [~~FrankfortT~~], Kentucky 40601.

JERRY T. LUNSFORD, COMMISSIONER
ROBERT D VANCE, SECRETARY

APPROVED BY AGENCY: May 9, 2011

FILED WITH LRC: May 11, 2011 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2011, at 10:30 am, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort,

Kentucky 40601-5405. Individuals interested in being heard at this hearing shall notify this agency in writing by June 17, 2011 (five working days prior to the hearing) of their intent to attend. The 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 June 30, 2011. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Dawn M. Bellis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, phone (502) 573-0365 ext. 144, fax (502) 573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dawn M. Bellis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the continuing education procedures for master electricians, electricians and electrical contractors, as well as the criteria for being approved as a continuing education provider.

(b) The necessity of this administrative regulation: 227A.100(7) requires the department to promulgate an administrative regulation to establish requirements relating to continuing education, including program content and qualifications of providers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation conforms to the statutes by establishing the standards and procedures that are to be followed for the licensing of electrical contractors, electricians and master electricians, as well as continuing education providers..

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the standards and procedures authorized by statutes in implementation of the requirements for licensing of electrical contractors, electricians and master electricians and for the approval of continuing educational providers.

(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 provides guidelines and standards for revocation of electrical continuing education provider approval.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow the Department to carry out the electrical licensing program as efficiently and effectively as possible.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227A.040 requires the Department to promulgate administrative regulations to create procedures governing the issuance of licenses to electrical contractors, master electricians and electricians, including continuing education requirements.

(d) How the amendment will assist in the effective administration of the statutes: The amendment establishes criteria for revocation of continuing education providers so that licensees are assured that "approved" providers are competent and compliant with provider requirements.

(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 the Department of Housing, Buildings and Construction, the Division of Building Code Enforcement, Electrical Licensing Section, applicants for and approved continuing education providers will be affected by this amendment.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Department will be charged with confirming that approved continuing education providers maintain approval requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no fee for an electrical continuing education provider to be approved by the Department of Housing, Buildings and Construction.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Electrical licensing continuing education providers will continue to be recognized and approved unless the Department determines that the provider meets one or more of the six articulated reasons for revocation.

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

(a) Initially: No additional costs anticipated to implement.

(b) On a continuing basis: No additional costs anticipated to implement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Existing agency funds of the Electrical Licensing Section.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Not applicable.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applicable to this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Electrical Licensing Section will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 227A.040(8) and 227A.100(7).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation establishes no revenues nor creates expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year. Not applicable.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years. There are no anticipated increases or decreases in revenue based upon the department's ability to revoke continuing educator provider approval for articulated reasons.

(c) How much will it cost to administer this program for the first year? The program's costs will remain stable.

(d) How much will it cost to administer this program for subsequent years? The program's costs will remain stable.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy
(Amendment)

900 KAR 5:020. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010-216B.130
STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(27), 216B.040(2)(a)2a
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The 2011 Update to the 2010-2012 State Health Plan shall be used to:
(1) Review a certificate of need application pursuant to KRS 216B.040; and
(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(28)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference. (1) The "2011 Update to the 2010-2012 State Health Plan", May[~~March~~] 2011, is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Health Policy, 275 East Main Street, fourth floor, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ERIC FRIEDLANDER, Deputy Secretary
JANIE MILLER, Secretary
APPROVED BY AGENCY: May 6, 2011
FILED WITH LRC: May 6, 2011 at 4 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2011, at 9 a.m. in the Public Health Auditorium located on the First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2011, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business June 30, 2011. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:
CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone 502-564-7905, fax 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TEIRING STATEMENT

Contact Person: Eric Friedlander, (502) 564-7042
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation incorporates by reference the State Health Plan, which is used to determine whether applications for certificates of need are consistent with plans as required by KRS 216B.040.
(b) The necessity of this administrative regulation: KRS 216B.015(27) requires that the State Health Plan be prepared. Changes to the State Health Plan are necessary to change Certificate of Need application review criteria for Special Care Neonatal Beds. This administrative regulation incorporates the 2011 Update to the 2010 - 2012 State Health Plan by reference to provide the needed review criteria. Changes to the review criteria will allow an existing facility with an occupancy rate for special care Level II neonatal beds greater than seventy (70) percent to add up to four (4) additional acute care beds as special care Level II neonatal beds. This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The preparation of the State Health Plan is required by KRS 216B.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The preparation of the State Health Plan is required by KRS 216B.
(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 will update the 2010 - 2012 State Health Plan review criteria will allow an existing facility with an occupancy rate for special care Level II neonatal beds greater than seventy (70) percent to add up to four (4) additional acute care beds as special care Level II neonatal beds. This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.
(b) The necessity of the amendment to this administrative regulation: KRS 216B.015(27) requires that the State Health Plan be prepared triennially. Changes to the review criteria will allow an existing facility with an occupancy rate for special care Level II neonatal beds greater than seventy (70) percent to add up to four (4) additional acute care beds as special care Level II neonatal beds. This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment carries out the requirement of KRS 216B.015(27) which requires that the State Health Plan to provide Certificate of Need requirements.
(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide an updated State Health Plan for purposes of certificate of need review.
(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 health care providers governed by the Certificate of Need law, citizens who use health care in Kentucky, health planners in the Certificate of Need Program, and local communities that plan for, use, or develop community health care facilities.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The modifications will apply to potential Certificate of Need applicants for special care neonatal beds. They will now be allowed to apply for additional acute care beds that will be used as special care Level II neonatal beds.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to entities to comply with this amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This change will allow facilities with higher occupancy rates to add beds so that newborns will not have to be transferred to other facilities due to lack of space. This will allow mothers and newborns to remain in the same facility and guarantee continuity of care for the newborn.
(5) Provide an estimate of how much it will cost the administrative body 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: No funding is necessary since there is no cost to implementing this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.

(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.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment may impact any government owned, controlled or proposed healthcare facilities or services.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.015(27) requires that the State Health Plan be prepared. This administrative regulation incorporates the 2011 Update to the 2010 – 2012 State Health Plan by reference.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No impact to revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenues will be generated to state or local government.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:160. Local health department operations requirements.

RELATES TO: KRS 211.1751(1), 211.180, 212.230, 212.240, 212.245, 212.890

STATUTORY AUTHORITY: KRS 194A.050, 211.170, 211.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.170(1) and (3) require the Cabinet for Health Services to establish policies and standards of operation for the local health departments of Kentucky. This administrative regulation establishes minimum administrative and operational requirements for Kentucky's local [~~public~~] health departments.

Section 1. Definitions. (1) "Agency" is defined at KRS 211.1751(1).

(2) "Public health department director" ["~~Agency director~~"] means the administrative officer of the agency.

(3) "Board" means the statutorily mandated governing body for local health departments in Kentucky.

Section 2. Policies and Procedures. Internal policies and procedures for operations established by an agency shall comply with procedures and policies developed by the cabinet, in accordance with KRS 211.170(1), (2), (3), (4), and (6).

Section 3. Conflict of Interests. (1) An agency employee shall avoid situations that
are or appear to be a conflict of interest.

(2) An agency employee shall not:

(a) Sell, recommend or promote a specific brand of product or equipment which is subject to inspection or evaluation by an agency or its employees;

(b) Recommend or express to the public a preference for health-related professional services or products of an individual or firm;

(c) Be engaged in a business or have financial interests which affect the employee's professional relationship with the agency or cabinet or impair the effectiveness of the employee;

(d) Enter into a contract with or hold an additional full-time or part-time position in another agency unless approved by the cabinet in writing;

(e) Be an owner or part owner of a business that contracts or is regulated by the agency unless approved by the cabinet; or

(f) Accept appointment or be employed as a dog warden.

(3) An agency employee shall not conduct the following services for the employee [~~himself~~], the employee's [~~his~~] spouse, parent, child, brother or sister or the spouse of either of them, grandparent, grandchild, mother or father-in-law, daughter or son-in-law:

(a) Determine eligibility for an agency service;

(b) Issue women, infants, and children food instruments or prescribe food packages; or

(c) Conduct an inspection or monitor compliance with the agency's medical or environmental standards and administrative regulations.

(4) An employee or former employee shall not receive severance pay in cash, benefits, goods, or services.

Section 4. Employee Tuition Assistance. (1) A public health department director [~~An agency director~~] may approve payment of tuition for a regular full-time or designated part-time 100-hour employee to attend a course of study provided by a college or university, correspondence school, vocational school, or other training institution, if the coursework is related to:

(a) The work of the agency; and

(b) The employee's current position; or

(c) An agency position to which the employee can reasonably aspire.

(2) The public health department director [~~agency director~~] may approve tuition assistance from the agency budget for a nonrelated course if:

(a) The course is a requirement for a degree or certification program; and

(b) The degree is determined to be necessary to the function and purpose of the agency.

(3) The board may approve a tuition assistance request to be used by a public health department director [~~an agency director~~] for the director's [~~his or her~~] course of study.

(4) Restricted funds used for payment of tuition assistance shall receive prior written approval from the funding authority.

(5) An employee approved to receive tuition assistance shall repay to the agency the tuition paid on the employee's [his] behalf if the employee [he]:

(a) Fails to provide the agency, or board, evidence of satisfactory completion of the training within thirty (30) working days after scheduled completion;

(b) Receives a grade of:

1. Less than "C" in an undergraduate course;

2. Less than "B" in a graduate course;

3. "F" in a pass/fail course;

4. "U" in a satisfactory/unsatisfactory course;

5. "I" for incomplete; or

6. Fails to complete the training, regardless of cause, without prior approval of the public health department director [agency director] or board.

(6) The employee shall maintain paid full-time [full-time] or 100-hour work status for the agency while taking courses.

(7) An employee shall continue employment with the agency for a period of at least one (1) month employment for each semester hour or equivalent of tuition paid by the agency, unless directed by the agency to undertake the course work.

(8) The employee, in his/her [his or her] discretion, may use accumulated annual leave or compensatory time as necessary to attend classes if requested by the employee.

(9) The maximum allowable course hours an employee may take in a semester shall be determined by the public health department director. [are:

(a) Six (6) graduate hours;

(b) Nine (9) undergraduate hours;

(c) Nine (9) classroom hours per week for vocational school training; or]

(d) Three (3) hours for a summer session, intersession, or minisemester.]

(10) If approved, tuition assistance shall be granted for:

(a) Tuition and routine registration fees;

(b) Laboratory and examination fees; and

(c) Required textbooks.

(11) Tuition assistance shall not be granted for:

(a) Late registration;

(b) Graduation fees;

(c) Parking or transportation;

(d) Records or transcripts;

(e) Supplies;

(f) Assessments; or

(g) Courses taken prior to approval by the agency.

(12) Tuition and fees shall be paid directly to the college or training institution or reimbursed to the employee.

(13) An agency shall maintain records, subject to audit, to ensure the proper administration of the employee tuition assistance program.

Section 5. Educational Leave Program. (1) The public health department director [agency director] may approve educational leave for a regular full-time or designated part-time 100-hour employee.

(2) Educational leave may be approved on a full-time or part-time basis with or without pay for periods not to exceed two (2) years (fifty-two (52) continuous pay periods).

(3) Educational leave shall be for the purpose of coursework or training related to the current and/or future duties and responsibilities of the employee.

(4) Payment for educational leave shall come from the agency budget.

(5) Restricted funds used for payment of educational leave shall receive prior written approval from the funding authority.

(6) Educational leave payment shall not be granted for:

(a) Late registration fees;

(b) Graduation fees;

(c) Parking or transportation;

(d) Records or transcripts;

(e) Supplies;

(f) Assessments; or

(g) Courses taken prior to approval by the agency.

(7) To participate in educational leave with pay, the employee shall:

(a) Be a regular full-time or designated part-time 100 hours employee;

(b) Enroll in an area of study with a clear and direct relationship to the work of the agency;

(c) Be formally accepted by the educational institution; and

(d) Be approved for educational leave by the agency.

(8) An agency approving an employee for educational leave with pay shall:

(a) Place the employee on full- or part-time educational leave at the employee's regular rate of pay; and

(b) Restore the employee to the position the employee [he] formerly held, to a position of like status and pay, or promote the employee to a higher position upon the employee's successful completion of educational leave; or

(c) Cancel the employee's educational leave and restore the employee to the same or like position if the academic standing of the employee falls below the requirement of Section 4(5) of this administrative regulation.

(9) An employee on full-time leave with pay shall be a full-time student as defined by the institution in which the employee is enrolled.

(10) After satisfactorily completing the educational leave the employee shall:

(a) Continue employment with the agency:

1. At least one (1) day for each full day of leave used if tuition and other fees are not paid by the agency; or

2. At least one and one-half (1 1/2) days for each full day of leave used if tuition and other fees are paid by the agency; or

(b) If the employee [he] terminates employment with the agency, repay the agency at the rate of 100 percent of the employee's [his] daily pay or an average of the employee's [his] daily pay during leave, multiplied by the number of obligated days remaining; and

(c) Forfeit all leave rights if the employee [he] accepts public or institutional financial assistance other than that provided by the agency, unless the agency has granted prior approval.

(11) An agency directing an employee to be placed on full-time or part-time educational leave shall:

(a) Pay the following:

1. The employee's regular rate of pay;

2. Tuition and routine registration fees;

3. Required textbooks and course supplies;

4. Laboratory and examination fees;

5. Dormitory or housing costs; and

6. Transportation costs to and from the school once per semester;

(b) Restore the employee to the position the employee [he] formerly held, to a position of like status and pay, or promote the employee to a higher position, if qualified, following completion of educational leave; and

(c) Cancel the employee's educational leave and restore the employee to the same or like position if the academic standing of the employee falls below the requirement of Section 4(5) of this administrative regulation.

(12) An employee approved for educational leave without pay shall not incur any service obligation to the agency.

(13) An agency shall maintain an educational leave file on each employee requesting or receiving educational leave.

Section 6. Employment of Relatives. (1) Except as provided in subsections (3) and (4) of this section, an agency shall not employ an individual that is immediately related to the public health department director [agency director] or to an immediate supervisor.

(2) An individual immediately related to the public health department director [agency director] or immediate supervisor shall include:

(a) Spouse;

(b) Parent;

(c) Child;

(d) Brother or sister or the spouse of either of them;

(e) Grandparent;

(f) Grandchild;

(g) Mother- or father in-law; or

(h) Daughter- or son-in-law.

(3) If a current employee is in a supervisory relationship with an immediate relative, the employee shall be transferred to another site within the agency with the same job duties, or assigned a different supervisor.

(4) The cabinet may approve the employment of an immediate relative in a case determined to be in the public interest and approved by the board.

Section 7. Agency Facility Ownership. (1) An agency shall not pay rent to the fiscal court if the facility is owned by the fiscal court and was constructed with state funds, agency funds, or local public health tax appropriations.

(2) The agency shall be permitted to remain in the facility owned by the fiscal court rent-free for a minimum of twenty (20) years or for the useful life of the facility, whichever is longer.

Section 8. Capital Construction Requirements. (1) An agency requesting state capital construction funds from the cabinet for new construction, building expansion or renovation shall:

(a) Submit a letter of request for such project to the cabinet and if requested, submit one (1) copy of the plans and specifications for the project to the cabinet for review and approval;

(b) Submit one (1) copy of the plans and specifications, if appropriate, to the Department of Housing, Buildings, and Construction to assure compliance with building and safety codes;

(c) Provide written assurance to the cabinet that the facility will be constructed in accordance with approved plans and specifications;

(d) Provide written assurance to the cabinet that a cost overrun or financial commitment above the state grant will be paid by the agency;

(e) Submit architectural and contractor agreements or contracts to the cabinet for review prior to implementation;

(f) Provide written assurance to the cabinet that the agency will be allowed to use the facility for a minimum of twenty (20) years rent free or for the useful life of the facility, whichever is longer;

(g) Provide written documentation to the cabinet that the board has approved the awarding of the architectural and contractor agreements;

(h) Provide quarterly progress reports to the cabinet on the status of the project;

(i) Submit a closing report upon completion or close-out of the project; and

(j) Maintain a comprehensive construction file for the useful life of the building which includes:

1. Documents and correspondence relative to the project;
2. Written contracts or agreements; and
3. Progress reports, and financial transactions.

(2) An agency's facilities, whether owned or leased by the agency, shall comply with applicable state and local building, fire and safety codes and ordinances.

(3) Prior to construction or modification of an x-ray room, the plans and specifications for the construction or modification shall be evaluated by a qualified expert. The Radiation Health and Toxic Agents Branch of the department shall be contacted regarding compliance requirements.[~~(4) The cabinet shall not provide more than fifty (50) percent of the total amount of funds necessary for the agency's construction project.~~]

Section 9. Agency Insurance Requirements. (1) An agency shall maintain current replacement value insurance on:

(a) A building owned by the agency or board; and

(b) On the contents of both owned and leased facilities.

(2) An agency shall maintain:

(a) Public officials' liability insurance for board members;

(b) General liability insurance for agency staff; and

(c) Fiduciary bonding on staff and board members who handle public funds.

(3) Contracted providers shall attest to current liability coverage under the terms of their contract with the agency.

(4) Contractors of capital construction projects shall:

(a) Post bid and performance bonds; and

(b) Carry appropriate liability insurance at levels approved by the board, to cover their contracted responsibilities.

Section 10. Quality Assurance. (1) An agency shall establish a process approved by the cabinet to assure/improve the quality of services provided.

(2) The quality assurance/improvement process shall include:

(a) An assessment of public health services provided by the agency;

(b) A review of agency [~~medical~~] records;

(c) Needs assessment data (satisfaction surveys, community assessment tools etc…) [~~Community satisfaction surveys~~] which address the community, patient, and provider perspectives; and

(d) A review of administrative data and outcomes based on a cabinet approved community plan.

(3) The findings, interventions implemented, and recommendations to assure continued improvement shall be provided to the board and cabinet.

Section 11. Days and Hours of Operation. (1) An agency shall post the hours of operation near the main entrance to the agency. The posting shall be plainly visible from the outside.

(2) Except in an emergency situation, an agency shall publicize in advance if the agency is to be closed during regular working hours. The notice shall:

(a) Be prominently displayed at the main entrance to the agency;

(b) Indicate where and how staff may be reached; and

(c) Indicate when offices are expected to reopen.

Section 12. Grievance Policies. (1) An agency shall establish an internal grievance procedure to assure the timely and equitable resolution of a complaint alleging discrimination, unfair or inappropriate treatment of a member of the public [~~or a patient~~].

(2) An agency grievance procedure shall:

(a) Protect the rights of the complainant;

(b) Meet due process requirements;

(c) Assure compliance with applicable federal laws and regulations governing equal opportunity;

(d) Designate an employee to coordinate the grievance process; and

(e) Provide for methods of accepting written, verbal, or anonymous complaints.

(3) A complaint shall be filed within sixty (60) days of the alleged incident.

(4) An agency shall conduct an investigation of the complaint to afford interested or affected parties an opportunity to submit evidence or testimony relevant to the complaint.

(5) A written description of the investigation and a description of the resolution shall be issued and a copy forwarded to the complainant and the agency director no later than forty-five (45) calendar days after receipt of the complaint.

(6) An agency shall maintain files and records relating to complaints filed.

(7) The complainant dissatisfied with the resolution may request reconsideration, within thirty (30) calendar days, by the public health department director [~~agency director~~] or the board.

(8) The complaint shall continue through the agency's grievance process even if the complainant is pursuing other state or federal remedies, unless otherwise advised by legal counsel[~~council~~].

WILLIAM D. HACKER, M.D., FAAP, CPE, Commissioner
JANIE MILLER, Secretary

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2011 at 9 a.m. in the Conference Suite A of the Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2011, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a

written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business June 30, 2011. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Glass 502-564-6663 ext.3609

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum administrative and operational requirements for Kentucky's local health departments.

(b) The necessity of this administrative regulation: This administrative regulation establishes minimum administrative and operational requirements for Kentucky's local health departments in order to provide consistent procedures among all local health departments.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The Cabinet has responsibility under KRS 194A.050 (1), 211.170, and 211.180 to establish policies governing the activities and practices of the local health departments, supervise their financial, personnel, program, and administrative functions, and establish standards of operations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures consistent practices in the Kentucky local health departments by providing policies and standards of operation.

(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 includes grammatical changes that will provide more clarity to wording. It also allows more decision-making authority for the county and district public health department directors in the operations and activities of their local health departments.

(b) The necessity of the amendment to this administrative regulation: This regulation is being amended based on collaborative agreements between the state and local health departments to bring more clarity and flexibility to local health department operations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides a mechanism of establishing consistent and updated administrative and operational practices for the local health departments of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in establishing policies governing the activities and practices of the local health departments. It will also assist in supervising the local health departments' financial, program, administrative and other functions. Additionally, in accordance with KRS 212.120, standards of operation are established.

(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 all local health departments.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is necessary as this amendment is to add clarity to the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The local health departments would not be fiscally impacted by this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Consistency in administrative and operational practices and activities will be achieved.

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

(a) Initially: It will cost No new state or local dollars are required.

(b) On a continuing basis: No new state or local dollars are required.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? There would be no cost incurred by the local health departments.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No fees or new funding will be required to implement this regulation. No increase in fees or funding is indicated.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation establishes no fees directly or indirectly. This administrative regulation does not establish any fees or affect any fees.

(9) TIERING: Is tiering applied? Tiering is not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect each local health department.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following state statutes require or authorize this administrative regulation amendment: The Cabinet has responsibility under KRS 194A.050 (1), 211.170, and 211.180 to establish policies governing the activities and practices of the local public health departments, supervise their financial, personnel, program, and administrative functions, and establish standards of operations.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation amendment will not generate any revenue for any unit of state or local government in its first year of implementation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation amendment will not generate any revenue for any unit of state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? The local health departments will not be fiscally impacted by this amendment.

(d) How much will it cost to administer this program for subsequent years? The local health departments will not be fiscally impacted by this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:165. Local health department accounting/auditing requirements.

RELATES TO: 211.180, 212.230, 212.240, 212.245, 212.890
STATUTORY AUTHORITY: KRS 194A.050, 211.170, 211.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.170(1) and (3) require the Department for Public Health to establish policies and standards of operation for Kentucky's local [~~public~~] health departments. This administrative regulation establishes minimum accounting and auditing requirements for Kentucky's local [~~public~~] health departments.

Section 1. Definitions. (1) "GAAP" means generally-accepted accounting principles.

(2) "OMB" means the U.S. Office of Management and Budget.

Section 2. Accounting and Auditing Requirements. (1)(a) All recording by local health departments in the books of account and all financial reporting shall be performed in accordance with:

1. This administrative regulation;

2. Cash or modified accrual accounting procedures as approved by the Department for Public Health;

3. 2 C.F.R., PART 225[~~OMB Circular A-87~~], incorporated by reference; and

4. GAAP.

(b) If GAAP conflicts with policies established in this administrative regulation, the local health department shall follow policies established in this administrative regulation.

(2) Each local health department shall be audited by a certified public accountant after the close of every fiscal year. The nature of audit services required is as follows:

(a) The objectives of the audit are to assure that receipts and expenditures have been properly authorized, recorded, and reported.

(b) The following items shall be audited:

1. Federal, state, and local funds and fees received and expended; and

2. Books, accounts, and other financial documentation, by cost center.

(c) An OMB Circular A-133, incorporated by reference, audit shall be performed to determine whether the financial statements present fairly the financial position and results of operations in accordance with the appropriate basis of accounting and in compliance with federal and state laws and administrative regulations.

(d) An audit shall be conducted in accordance with:

1. GAAP;

2. "Government Auditing Standards" and the provisions of OMB Circular A-133; and

3. A-133 Compliance Supplement.

(e) The following reports, if applicable, shall be provided to the local health department and the Department for Public Health:

1. Auditor's opinion on the financial statements and on the schedule of expenditures of federal awards;

2. Statement of assets, liabilities, and fund balance;

3. Statement of revenues and expenditures by cost center;

4. Statement of changes in fund balance;

5. Comparative schedule of budgeted to actual operating revenues and expenditures by cost center;

6. Audit adjustments, or a statement that an adjustment is not required;

7. Schedule of expenditures of federal awards, as required by OMB Circular A-133;

8. Report on compliance and on internal control over financial reporting based on an audit of financial statements performed in accordance with "Government Auditing Standards";

9. Single audit report on compliance with requirements applicable to each major program and on internal control over compliance in accordance with OMB Circular A-133;

10. Schedule of findings and questioned costs, in accordance with OMB Circular A-133, including the status of an uncorrected finding from a prior audit;

11. A summary of the auditor's results, in accordance with OMB Circular A-133;

12. Management's corrective action plan; and

13. Management letter:

a. Describing an internal control or compliance deficiency not a significant deficiency[~~reportable condition~~]; and

b. Referenced in the auditor's report on internal control and compliance.

(3) The reports described in subsection (2)(e) of this section shall be presented as prescribed by the American Institute of Certified Public Accountants Audit Guide "Government Auditing Standards and Circular A-133 Audits,"[~~American Institute of Certified Public Accountants Statement of Position 98-3, Audits of States, Local Governments, and Not-for-Profit Organizations Receiving Federal Awards, and subsequent amendments,~~] except that a written management letter is required when internal control and compliance deficiencies are determined not to be reportable conditions.

(4)(a) A report shall contain all significant deficiencies,[~~reportable conditions~~] with those significant deficiencies that[~~reportable conditions which~~] are considered material weaknesses being appropriately segregated and identified.

(b) Any other matters conveyed to management shall be in writing in the management letter, and shall be discussed during the exit conference.

(c) Significant deficiencies[~~Reportable conditions~~] presented as part of the reports shall be well developed and shall consist of the following components, to the extent practicable:

1.[~~(a)~~] A statement of deficiency[~~condition~~];

2.[~~(b)~~] The criteria for the significant deficiencies[~~reportable condition~~];

3.[~~(c)~~] The cause of the deficiency[~~condition~~];

4.[~~(d)~~] The effect of the deficiency[~~condition~~];

5.[~~(e)~~] A recommendation for correction; and

6.[~~(f)~~] Management's response and corrective action plan.

(5) If applicable, the audit firm shall report on:

(a) Uncorrected comments reported in the preceding audit;

(b) The status of prior-year questioned costs, whether resolved with the federal grantor or unresolved; and

(c) Questioned costs from the preceding audit and any unresolved questioned costs from prior years.

(6) The audit firm shall report immediately, in writing, to the Commissioner of the Department for Public Health, any fraud, irregularity, illegal act, or indication of an illegal act that comes to its attention during the term of the contract.

(7) A vendor selected to conduct a local health department audit shall meet criteria provided in instructions of the Department for Public Health.

Section 3. Internal Control Procedures. (1) A local health department shall have written internal control procedures that shall be followed by the local health department. The public health department director[~~chief executive officer,~~] or other staff shall notify the Department for Public Health immediately, if evidence of possible fraud or mismanagement is discovered.

(2) A local health department shall use an automated financial accounting system approved by the Department for Public Health.

(3) Local health departments shall submit all financial reports to the Department for Public Health in accordance with the accounting instructions and time frames distributed to all local health departments.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "2 C.F.R., PART 225[~~"OMB Circular A-87~~] - Cost Principles for State, Local and Indian Tribes Government," edition 2011; and

(b) "OMB Circular A-133 - Audits of States, Local Governments and Nonprofit Organizations," edition 2007.

(2) This material may be inspected, copied, or obtained, subject to applicable
copyright law, at the Kentucky Department for Public Health, Division of Administration & Financial[~~Resource~~], Management, Budget

Branch, Local Health Budget Section, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM D. HACKER, M.D., FAAP, CPE, Commissioner
JANIE MILLER, Secretary
APPROVED BY AGENCY: May 11, 2011
FILED WITH LRC: May 12, 2011 at 3 p.m.
PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2011 at 9 a.m. in the Conference Suite A of the Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2011, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business June 30, 2011. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Glass (502) 564-6663 ext. 3609

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum accounting and auditing requirements for Kentucky's local health departments.

(b) The necessity of this administrative regulation: This administrative regulation provides proper accounting and auditing requirements to all Kentucky local health departments. This relates to KRS 211.170 which requires the Cabinet to supervise the financial, program, administrative and other functions of the local health departments.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The Cabinet has responsibility under KRS 211.190 to provide administrative, consultative, technical, professional, and other services needed to assist local health departments in effectively managing their maintenance and operational activities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the necessary guidance and requirements for local health department accounting and auditing practices.

(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 adds new definitions to this regulation in order to update local health department staff with new accounting and auditing terminology.

(b) The necessity of the amendment to this administrative regulation: This regulation is being amended to provide the local health departments with current accounting and auditing report titles.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides a mechanism of establishing consistent and proper accounting and auditing requirements for the local health departments in Kentucky as the Cabinet is required to do by KRS 211.170. That statute requires the Cabinet to supervise the financial, program, administrative and other functions of the local health departments.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation provides for consistent accounting and auditing report terminology and guidance for local health department personnel.

(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 all county and district public health department directors and the local health department financial staff. A total of 56 health department entities are impacted.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The local health departments will need to be familiar with the new terminology that relates to accounting and auditing practices.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The local health departments will not be fiscally impacted by this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with this regulation, uniform accounting and audit reporting definitions will be updated and applied across the state for all local health departments.

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

(a) Initially: No new state or local dollars are required to implement this regulation.

(b) On a continuing basis: No new state or local dollars are required to implement this regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No additional funds beyond existing funds are required by the local health department to implement 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 will be required to implement this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation establishes no fees directly or indirectly. This administrative regulation does not establish any fees or increase any fees, directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect each local health department located in each county and well as those counties organized into Districts.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 211.190 requires the Cabinet to provide administrative, consultative, technical, professional, and other services needed to assist local health departments in effectively managing their maintenance and operational activities.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation amendment will not generate any revenue for any unit of state or local government in its first year of implementation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties,

fire departments, or school districts) for subsequent years? This regulation amendment will not generate any revenue for any unit of state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? This regulation amendment will not require any cost for any unit of state or local government in its first year of implementation.

(d) How much will it cost to administer this program for subsequent years? This regulation amendment will not require any cost for any unit of state or local government in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:170. Local health department financial management requirements.

RELATES TO: KRS 211.170, 211.180(1), 212.230, 212.240, 212.245, 212.890

STATUTORY AUTHORITY: KRS 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.170(1) and (3) require the Department for Public Health to establish policies and standards of operation for Kentucky's local [~~public~~] health departments. This administrative regulation establishes minimum fiscal and financial management requirements for Kentucky's county and district local [~~public~~] health departments and for all other classes of local health departments, except if a specific Kentucky revised statute requires a more stringent minimum requirement.

Section 1. Definitions. (1)" Public health department director" [~~Chief administrative officer~~"] means:

(a) The administrative or health officer of a county or district health department;

(b) The administrative assistant of a county health department that does not have a health officer;

(c) The director of a district health department that does not have a health officer;

(d) The district director of health of an independent district department of health; or

(e) The commissioner of an urban-county department of health or of a health department serving a county with a city of the first class.

(2) "Fee-for-service program" means a program in which service fees, excluding program administration fees, are greater than fifty (50) percent of funding.

(3) "Local support" means local health department financial support:

(a) Including:

1. Unrestricted receipts from a local government agency or special district;

2. Receipts from the public health taxing district;

3. Nonfederal receipts from a contract with a board of education; and

4. An unrestricted donation from another source; and

(b) Excluding funds from the Undesignated and Restricted fund balances.

(4) "OMB" means the federal Office of [~~Budget and~~] Management and Budget.

(5) "Restricted fund balance" means the portion of a local health department's total fund balance that is restricted by the Department for Public Health for use for a specific program's expenses or other items of expense.

(6) "Undesignated fund balance" means the portion of a local health department's total fund balance that is not restricted by the Department for Public Health for a specific program's expenses or other items of expense.

Section 2. Budgeting Requirements. (1) Each local health department shall prepare a fiscal year budget in accordance with annual budgeting instructions developed and distributed by the Department for Public Health.

(2) Each local health department shall have a balanced budget in which receipts at least equal expenditures. Each local health department shall operate within its approved budgets.

(3) Each local health department annual budget shall be approved by both the governing local board of health and the Department for Public Health.

(4)(a) Each local health department shall be responsible for making budget changes necessitated by:

1. Changes in financial status;

2. Changes in project status; or

3. The addition or deletion of a new project.

(b) Changes shall:

1. Be subject to review and approval by the Department for Public Health; and

2. Require a corresponding change in plans if required by the Department for Public Health.

(5) Actual capital expenditures of local health departments for furniture and equipment, data processing equipment and vehicles shall not exceed the approved budgeted amount without prior [~~notification and~~] approval by the governing board of health [~~Department for Public Health~~].

(6) Actual use of a local health department's undesignated fund balance in excess of the amount included in the approved budget shall be approved by the governing board of health [~~and the Department for Public Health~~] and shall be used solely for the operation and maintenance of [~~the~~] local health departments [~~department~~].

(7) An actual deficit in a local health department's financial operations for the fiscal year wherein cash expenditures and payroll related liabilities exceed available cash receipts, including approved use of the unrestricted fund balance, shall not be allowable.

(8)(a) If the Department for Public Health determines that a local health department is receiving fewer receipts than are budgeted or is making expenditures in excess of the approved budget or, if through any other circumstances a deficit condition is probable at the end of the fiscal year, the Department for Public Health shall notify the local health department in writing of the determination.

(b) Within fifteen (15) working days of receipt of the notification, the local health department shall inform the Department for Public Health in writing of the reasons that the determination may be in error.

(c) If the reasons and corrective actions listed by the local health department are not sufficient in the department's opinion to prevent a deficit condition from occurring at the end of the fiscal year, the Department for Public Health shall direct the local health department to institute a hiring freeze on employees, a freeze on meritorious, promotional or other salary increments, a reduction in contractual and other expenditure categories, or other action necessary to correct the deficit situation.

Section 3. Use of Receipts. A local health department may, with the approval of the Department for Public Health, transfer funds from a restricted to an unrestricted account.

(1) Receipts from any source shall be used in accordance with laws, policies, regulations, and contracts governing the use of the receipts. Receipts shall be used only for the operation and maintenance of the health department for necessary, reasonable, and proper purposes that protect and improve the health of the people of the Commonwealth.

(2) The minimum acceptable level of local support shall be determined annually by
the Commissioner of the Department for Public Health.

(3) The state allotment to a local health department shall be adjusted in the following circumstances:

(a) The local health department decreases its budgeted amount of local support below the minimum acceptable level. The state allotment shall be decreased by the same percentage in the

year of the decrease.

(b) The local health department receives less local financial support than the required level. The state allotment shall be decreased by a percentage equal to the percentage that the actual local support was less than the required local support. The decrease shall apply to the fiscal year following the shortage.

(c) The local health department accumulates an unrestricted fund balance, as of June 30 of a fiscal year, in excess of thirty (30) percent of that year's expenditures for non fee programs plus forty (40) percent of that year's expenditures for fee for service programs, or $100,000 [~~$80,000~~], whichever is greater. The local health department shall submit, to the Department of Public Health, a written plan of use for the amount of the excess. If approved, the funds shall be placed into a local restricted fund to be used solely for the purpose(s) approved.

(4) Fees.

(a)1. A request from a local health department to change patient fees to either a sliding or nominal fee basis[~~,~~] shall be sent to the Department for Public Health for approval.

2. A request shall include documentation of the proposed full amount of the fee, the estimated annual cost of the service and the estimated net fee income for the service.

3. Charges for medical supplies and equipment may be requested as a percentage of the acquisition cost of the supply or equipment item or may be requested as charges for individual items;

(b) Patient fees charged to self-pay patients, if approved by the Department for Public Health, may be charged on a sliding fee basis, in accordance with the following formula: Fees for self-pay patients with a household income up to 250 percent of the most recent poverty guidelines, published annually by the Department of Health and Human Services, shall be based on a schedule of discounts from 101 to 250 percent of poverty, with full charge assessed for individuals above 250 percent of poverty and no charge for individuals below 101 percent of poverty; except:

1. A nominal fee up to five (5) dollars shall be charged for communicable disease services specified by the Department for Public Health; and

2. A charge shall not be made to school age children at a school-based clinic if requested by the local health department and authorized by the Department for Public Health.

a. Inability to pay the assessed fee shall not be a barrier to services.

b. A policy of a local health department that may result in referral of services due to nonpayment of fees shall be approved by the Department for Public Health.

c. A local health department shall bill third-party payors for covered services provided to individuals.

(c) If a third-party governmental payor is billed for services rendered to an eligible patient, the regulations of the third-party payor shall be followed for the part of the fee charged directly to the patient;

(d) A Medicaid "spend down" patient shall be billed at 100 percent of charges;

(e) A patient who has health insurance coverage shall be billed at 100 percent of charges. A balance not covered by health insurance shall be charged to the patient, except that the amount charged shall not exceed the amount that a patient without health insurance coverage would be charged, using standard discounts as applied to total charges for services rendered; and

(f) A fee, regardless of the source of the fee or the funding of the project, shall be applied to the project that generates the fee, in accordance with income procedures of the OMB Circular A-102. A third-party cost reimbursement payment and an interim payment shall be recorded in the same project where the costs were recorded, in proportion to the expenditures of each project that were reimbursed by the third party.

(5) A matching requirement for any source of receipts shall be the sole responsibility of each local health department. [~~(a) A copy of proposed grants, program administration contracts or other requests for project restricted funding applied for by each local health department from agencies other than the Department for Public Health shall be sent to the Department for Public Health when submitted to the grantor agency.~~

~~(b) The Department for Public Health may determine the correct receipt account for the recording of funds in all cases.~~]

(6) The following policies shall be applied in closing receipt accounts for the local health department fiscal year, July 1 to June 30:

(a) Receipts earned and received during a fiscal year shall be recorded as a receipt of that fiscal year; and

(b) Receipts earned in one (1) fiscal year and received after June 30 of that fiscal year shall be recorded as new fiscal year receipts.

Section 4. Expenditure Policies. Policies and procedures required by the OMB Circular A-87 shall be followed by local health departments for expenditures in projects, regardless of the source of funds for the project. The following policies concerning allowable expenditures and their proper documentation shall be followed by local health departments:

(1) Salaries, wages, benefits, and personnel payments.

(a) Salaries and wages for only those positions specified in administrative regulations for local health departments, 902 KAR 8:040 and 902 KAR 8:060 through 902 KAR 8:140, shall be allowable. The positions and related expenditures shall be included in the approved budget or approved budget revisions of the local health department. Other salary, wage, or bonus payments shall not be allowable, unless specifically approved by the Department for Public Health. Uniform pay dates shall be determined annually by the Department for Public Health.

(b) Expenditures shall be authorized for payment of employer paid fringe benefits required or allowed by policies of the Department for Public Health.

1. Required benefits shall be payments of the single-coverage amount for health insurance and life insurance that are part of the state-negotiated plans.

2. Additional allowed[~~Allowed~~] benefits shall be determined by the public health department director and approved by the governing board of health. [~~:~~

~~a. The single-coverage amount for a dental insurance plan selected by the local health department; and~~

~~b. A flexible spending account program with similar provisions as the plan available to state employees.~~]

3. A part-time employee or a personal services contract employee working less than 100 hours per month [~~, or a personal services contract employee~~] shall not be eligible for employer-paid fringe benefits.

4. A payment to or on behalf of an employee for another direct or fringe benefit or other reason shall not be made unless:

a. Specifically allowed by this administrative regulation;

b. Approved by the Department for Public Health.

c.[~~(c)~~] A disbursement for services of a contract employee or independent contractor shall be made in accordance with the terms of the written contract. A contract payment shall not be made without proper written documentation demonstrating that services have been rendered.

(2) Capital expenditures.

(a) Capital expenditures are allowable for necessary capital equipment, land and buildings.

1. The equipment in this category shall cost more than $5,000 and have an expected useful life of one (1) year or more.

2. The same purchasing policies apply to capital items as apply to noncapital purchases.

3. Before purchasing land or buildings or contracting for the construction or remodeling of a building, the local health department shall contact the Department for Public Health for approval.[~~specific instructions on the requirements that apply to land and building purchases and construction.~~

~~(b) Proposed leases for land or buildings shall be submitted to the Department for Public Health for review before they are entered into by the local health department:~~

~~1. A local health department shall not enter into a lease until written notice of the completion of the review is received by the local health department;~~

~~2. A lease shall not exceed a one (1) year period and shall end on June 30. A lease shall not renew automatically, but may contain a renewal clause requiring written notification for a period not to~~

~~exceed one (1) year.~~]

(b)[~~(c)~~] A local health department shall pay a vendor within thirty (30) working days of the receipt of the service or goods, or within thirty (30) working days of the receipt of the invoice or bill from the vendor, whichever is later, unless the health department and the vendor have agreed in writing to a longer period of time.

(c)[~~(d)~~] A local health department shall not donate anything of value to any individual or entity.

Section 5. Travel Policies. The public health department director [~~local health department's chief executive officer~~] shall insure that travel expenses are economical.

(1) A person who travels on official local health department business shall state on the expense voucher the purpose of each trip and shall maintain records to support claims.

(a) A local health department may provide an employee with a credit card to cover travel expenses.

(b) Due care shall be taken to assure that use of a local health department credit card is not abused.

(c) A local health department shall not provide an employee with cash to pay travel expenses. The public health department director [~~chief executive officer~~] responsible for insuring that travel reimbursement conforms to this policy shall disallow, reduce, or strike from an expense voucher any claim contrary to this administrative regulation, and may require written justification for an amount claimed.

(2) With the exceptions cited in this policy, reimbursement shall not be claimed for expenses of a person other than an employee, or other person in the official service of the local health department. Only necessary expenses of official travel shall be reimbursed.

(3) [~~The Department for Public Health shall interpret travel policy.~~

~~(4)~~] Each day's vicinity travel shall be listed on a separate line on the expense voucher. The employee's supervisor or the public health department director [~~chief executive officer~~] shall monitor vicinity mileage claimed by an employee on travel status.

(4)[~~(5)~~] A travel voucher shall be signed and dated by the employee submitting the claim and by an employee designated in accordance with the local health department's internal control procedures. The public health department director's [~~chief executive officer's~~] travel voucher shall be signed by one (1) or more board of health members designated at a board of health meeting to perform the function.

(5)[~~(6)~~] The official work station of an employee shall be:

(a) The street address of the health department facility;

(b) For a health department with more than one (1) facility, the facility in which the employee most often works;

(c) Established not for an employee's purposes, but in the best interest of the health department; and

(d) Designated for a valid purpose.

(6)[~~, not for allowing additional mileage reimbursement for an employee.~~

~~(7)~~] A standard travel expense voucher or another voucher approved by the Department for Public Health shall be used to claim reimbursement for travel expenses.

(a) Each travel expense voucher shall show the claimant's identifying number, name, address and official workstation. The travel voucher may be typed, prepared by computer, or legibly prepared in ink.

(b) Receipts shall be stapled to the travel voucher.

(c) If leave interrupts official travel, the travel voucher shall show the dates of leave.

(7)[~~(8)~~] A travel expense shall not be reimbursed unless the travel was authorized in advance as follows:

(a) Travel in Kentucky and within the other forty-nine (49) states and the District of Columbia may be approved by the public health department director[~~chief executive officer~~] or designee; and

(b) Budgeted out-of-state travel funds shall be available in the amounts required for the out-of-state travel. [~~; and~~

~~(c) Attendance by employees, board of health members, or other persons in the official service of the health department at the same out-of-state meeting shall be limited to two (2) persons, unless:~~

~~1. The meeting is within the local commuting area where an overnight stay is not required; or~~

~~2. Prior approval for additional attendees has been obtained from the Department for Public Health.~~]

(8)[~~(9)~~] A health department employee traveling on health department business shall use the most economical, standard transportation available and the most direct and usually traveled routes. Expenses added by use of other transportation or routes shall be assumed by the employee.

(9)[~~(10)~~] Health department-owned vehicles and gasoline credit cards shall be used for health department business travel when available and feasible.

(a) Mileage payment shall not be claimed by an individual when health department vehicles are used.

(b) Routine personal use of a health department vehicle, including commuting use, shall not be an allowable public expenditure.

(c) An assignment of a vehicle to an employee who takes the vehicle home shall be minimal and limited to direct service personnel providing:

1. On-call direct services, or a majority of services in the field; or

2. Substantial direct services on the way to or from the employee's workstation.

(d) If a vehicle is assigned under paragraph (c) of this subsection, some personal commuting mileage may be unavoidable. A local health department shall develop a written policy to address the unavoidable personal mileage. The policy shall conform to current federal and state tax requirements for income and travel and shall be forwarded to the Department for Public Health for review and approval.

(10)[~~(11)~~] Mileage claims for use of privately-owned vehicles shall be disallowed if a health department vehicle was available and feasible.

(11)[~~(12)~~] An employee on official travel status whose private or agency automobile breaks down [~~more than forty (40) miles from the employee's official work station or home~~] may continue in travel status as approved by[~~for one (1) day if approval is obtained from~~] the public health department director[~~chief executive officer~~].

(12)[~~(13)~~] An employee on official travel status may be granted annual leave during which time and travel expenses shall not be reimbursed.

(a) An employee on official travel status may be continued on travel status, as approved by the public health department director, [~~for a period of seven (7) calendar days~~] if the employee becomes incapacitated due to illness or injury that qualifies as official sick leave.

(b) Medical expenses shall not be allowable travel costs.

(13)[~~(14)~~] On nonworking days, an employee on official travel status shall forfeit official travel status if[~~:~~

~~(a)~~] the employee returns to his official work station or domicile. [~~; or~~

~~(b) The nonworking day is immediately preceded by or followed by a period of annual leave.~~]

(14)[~~(15)~~] Reimbursement shall not be paid for travel between the employee's residence and official workstation, unless requested to report to work while off duty.

(15)[~~(16) For city travel, employees are encouraged to use buses and subways. Taxi fare shall be allowed when more economical transportation is not feasible.~~]

[~~(17)~~]Commercial airline travel shall be coach or tourist class [~~and on United States airlines~~]. Additional expense for first-class travel shall not be reimbursed.

(16)[~~(18)~~] Mileage for each in-state trip shall be based on the Department of Transportation's official mileage map or on the Finance and Administration Cabinet's mileage chart if available. Out-of-state mileage shall be based on [~~Rand McNally~~] mileage maps. If point of origin is the claimant's residence, mileage, and time shall be paid between the residence and travel destination, or between the work station and travel destination, whichever is shorter.

(17)[~~(19)~~] The cost of renting [~~hiring~~] a car or other special conveyance in lieu of ordinary transportation shall be allowed only with acceptable written justification to the public health department

director[~~chief executive officer~~]. Privately-owned aircraft may be used only when it is to the advantage of the health department as evidenced by a reduction in both travel costs and travel time.

(18)[~~(20)~~] Lodging costs shall be the most economical available.

(a) Facilities providing special government rates or commercial rates shall be used where feasible.

(b) State-owned facilities or local health departments shall be used for meeting rooms and lodging where available, practical, and economical.

(19)[~~(21)~~] A claimant who attaches the hotel's or motel's preprinted, receipted bill shall be reimbursed for the claimant's actual cost of lodging, subject to the following provisions:

(a) [~~Except at a Kentucky state park, reimbursement in excess of the state's approved standard lodging rate per day plus taxes shall have individual written justification and prior approval from the chief executive officer. The written justification and approval shall be attached to the travel voucher.~~

~~(b)~~] Reimbursement at a Kentucky state park shall be at the park's actual rate.

(b)[~~(c)~~] The local health department shall not pay for lodging located within forty (40) miles of a claimant's residence or work station without approval of the public health department director.

(c)[~~(d)~~] Lodging accommodations shared with another person or persons, not a local health department employee, shall be reimbursed at the rate for a single room. Lodging accommodations shared with other local health department employees shall be reimbursed on a pro rata basis.

(20)[~~(22)~~] Mileage reimbursement for official use of privately-owned vehicles shall be at the mileage reimbursement rate determined [~~annually~~] by the Department for Public Health.[~~during the month of February. For out-of-state travel, mileage reimbursement for privately-owned vehicles shall not exceed airplane coach fare and ground transportation.~~]

(21)[~~(23)~~] With receipts, actual commercial transportation costs shall be reimbursed.

(22)[~~(24)~~] Reimbursement for use of privately-owned aircraft shall not exceed the cost of air coach fare or the privately-owned vehicle rate, whichever is less.

(23)[~~(25)~~] A claimant using camping vehicles for lodging shall [~~not~~] be reimbursed for actual expense[~~more than ten (10) dollars per night,~~] plus parking or camping charges. A receipt for parking or camping charges shall be submitted.

(24)[~~(26)~~] Actual parking, bridge, and toll charges shall be reimbursable. Toll receipts shall not be required for in-state travel by a two (2) axle vehicle.

(25)[~~(27)~~] Reasonable expenses shall be allowed for baggage handling, for delivery to or from a common carrier or lodging, and for storage. Charges for overweight baggage shall be allowed if the excess was for official business.

(26)[~~(28)~~] Registration fees required for admittance to meetings shall be allowed. An employee shall not claim meal expenses for meals included in the registration fee. A notation shall be made on the travel voucher that the registration fee included the cost of meals. Reimbursement for registration fees and other job-related training may be claimed as "other expenses" on the travel voucher and charged to the appropriate expenditure accounts. Receipts for job-related fees shall be attached to the travel voucher.

(27)[~~(29)~~] Telephone, fax, and telegraph costs for necessary official business shall be allowed. A call to agency central offices shall be made collect, or a telephone credit card or similar telephone card shall be used.

(28)[~~(30)~~] If justified, other necessary miscellaneous expenses associated with official travel may be allowed by the public health department director [~~chief executive officer~~]. Receipts shall be attached to the travel voucher.

(29)[~~(31)~~] Receipts shall be required for travel expenses over ten (10) dollars except for subsistence expense items.

(30)[~~(32)~~] Subsistence shall include amounts determined to have been spent for meals, taxes, and tips. To be eligible for subsistence for breakfast or lunch while traveling in Kentucky, a claimant's authorized work shall require overnight accommodations at a destination more than forty (40) miles from both work station and home and shall also require absence from the work station and home during mealtime. The claimant shall attach to his travel voucher, either his lodging receipts or other credible documentation sufficient for audit.

(31)[~~(33)~~] Health department employees assigned to attend a function of an organization not under their control may be reimbursed for actual meal costs charged or arranged for by the organization. Receipts for meals shall be attached to the travel voucher.

(32)[~~(34)~~] The health department may pay for subsistence and related expenses at staff meetings not to exceed four (4) meals per year for an employee. The subsistence
expense shall not exceed the department's standard meal reimbursement amount.
Travel status shall not be required for staff meeting meals.

(33)[~~(35)~~] Other allowable travel expense reimbursements shall consist of the following:

(a) Expenditures for the actual and reasonable cost of meals provided for district and county board of health members for official board functions, and for meals of guests[~~who have been~~] invited to participate in the official business conducted at these functions;

(b) Travel expenditures of board of health members attending official board of health functions, in accordance with travel policy provisions;

(c) Travel expenditures incurred by board members other than the chairperson if approved by the chairperson or the full board;

(d) Travel expenditures incurred by the chairperson if approved by the vice-chairperson or the full board;

(e) Expenditures for meals and transportation expenses of local health department advisory committee members attending official local health department functions; and

(f) Travel expenses of a person applying for a position that will designate the applicant as the public health director for the department, or as the medical director subject to the limits applicable to local health department employees, but no more than one (1) round trip for each applicant.

(34)[~~(36)~~] Expenditures shall be authorized for employee morale and welfare items, as defined in OMB circular A87, in an amount not to exceed twenty-five (25) dollars per employee per fiscal year. Receipts shall be kept for all expenditures.

(35)[~~(37)~~] Expenditures shall be allowed for other items necessary for the maintenance and operation of the local health department, if the expenditure is made in accordance with statutes and administrative policies.

(a) The Department for Public Health may require a local health department to provide adequate justification for any expenditure made by the local health department.

(b) If the justification is determined to be inadequate, appropriate corrective action shall be taken by the Department for Public Health.

Section 6. Purchasing Policies. (1) Each local health department shall develop and follow formal procedures for authorizing purchases made on behalf of the local health department.

(a) These procedures shall be outlined in the local health department's written internal control procedures.

(b) Written purchase orders (service authorizations for independent contractors) and receiving reports or service verifications shall be used except for utility bills and purchase orders not in conformance with standard business practice.

(2) A local health department shall use at least the following minimum procedures for purchasing and advertisement for bids:

(a) If an expenditure for a single type of good or service not covered by contract policies is more than $40,000 [~~$20,000~~] in a fiscal year, advertisements for bids shall be made in accordance with KRS 424.110-424.150. The Department for Public Health may be contacted for assistance in determining whether an expenditure is for a single type of good or service. The local health department shall:

1. Record, in writing, and maintain for department review:

a. Price quotations received; and

b.[~~Tabulation of prices offered; and~~

~~c~~] Reasons and basis for selecting and placing the order, if the lowest price was not selected;

2. Select the lowest and best bid.[~~;~~]

(b) If the expenditure for a single type of good or service is

more than $10,000 [~~$5,000~~] but not greater[~~less~~] than $40,000 [~~$20,000~~] in a fiscal year, the local health department shall:

1. Obtain three (3) or more price quotations from qualified sources of supply, if available, in the department's normal trade area; and

2. Record, in writing, and maintain for department review:

a. Price quotations received; and

b. [~~Tabulation of prices offered; and~~

~~c~~] Reason[~~Reasons~~] and basis for selecting and placing

(c) If a single type of good or service purchased is not greater [~~for less~~] than $10,000 [~~$5,000~~] annually, purchases may be made by local health departments from any available source of supply as long as the maximum value for each purchase is obtained;

(d) The requirements for competitive bidding shall not apply to a purchase made under the provisions of a state price contract;

(e) A physician who is the health officer for more than one (1) local health department may purchase supplies and services or technical services on a cooperative purchasing basis, in accordance with the purchasing administrative regulations for local health departments; and

(f) A local health department shall not enter into a lease or purchase agreement for nonprofessional services with a local health department employee or a business entity in which a local health department employee owns or controls more than five (5) percent interest, except if determined to be in the best interest of the public and approved in writing by the Department for Public Health.

Section 7. Contracting for Services. (1) A local health department shall not contract with a provider who is disbarred or suspended by a federal funding agency or by a Kentucky licensure board.

(2) This policy applies to personal services contracts for services of a professional or technical nature not available through the local health department merit system.

(3) Services of a professional or technical nature [~~, including audit services, legal services, and computerized data processing services,~~] shall be contracted for in writing in accordance with this policy except [~~that~~]:

(a) [~~Medical laboratory testing services do not require a written contract unless specifically directed by a Department for Public Health program;~~

~~(b) Medical services for independent contractors that do not exceed $5,000 in a~~
~~fiscal year shall not require a written contract;~~

~~(c)~~] Nonprofessional emergency repair services of skilled tradesmen shall not require written contracts. Nonemergency services of skilled tradesmen shall be procured in accordance with purchasing policies;

(b)[~~or (d)~~] Administrative or management services, financial management services, data processing services or consulting services or studies shall not be contracted for if these services can be provided to the local health department by the Department for Public Health.

(4) Allowable services.

(a) The service desired to be contracted for shall be an essential service which is necessary for carrying out public health services.

(b) A health department shall not use a personal services contract to substitute for establishing a [~~full-time~~] position in the local health department.

(c) A health department shall not contract for personal services with an individual who works 1,200 hours or more in a year, except with Department for Public Health approval.

(5)[~~At least two (2) potential providers, if available, shall be contacted before a provider is selected. Selection shall be based on the lowest and best bid.~~

~~(6)~~] A provider shall not be paid more than the standard hourly rate determined by the Personnel Cabinet. In determining acceptable rates of reimbursement, consideration shall be given to:

(a) The type of service to be provided;

(b) The availability of providers;

(c) The duration of services to be performed;

(d) Rates being paid to regular employees for similar services; and

(e) Comparable rates being paid in the area and other parts of the state for similar services.

(6)[~~(7)~~] A contract shall not be entered into with a provider when a conflict of interest, real or apparent, will occur.

(a) Conflicts of interest fall into the following categories:

1. Constitutional;

2. Statutory;

3. Common-law; and

4. Department for Public Health policies.

(b) A contract shall not be entered into with a local health department employee or local board of health member, unless authorized in writing by the Department for Public Health, and except for medical/professional services under $10,000 [~~$2000~~].

(c) A county board of health member who is not a member of the district board of health shall not incur a conflict of interest if the district health department contracts for the county board of health member's services.

(d) A contract exceeding $5,000 in a fiscal year shall not be entered into with a professional service corporation that has employees or governing board members as constituents, unless authorized in writing by Department for Public Health.

(7)[~~(8)~~] In drafting a contract, a determination shall be made concerning whether the provider of the service is an "independent contractor".

(a) If it is determined that the individual is not an independent contractor, the local health department shall withhold applicable federal, state, and local taxes and Social Security (FICA), and shall use a standard local health department personal services contract.

(b) If it is determined that the provider is an independent contractor, a standard local health department independent contract shall be used.

(8)[~~(9)~~] A contract:

(a) Shall not exceed one (1) year in duration and shall not contain a clause which indicates the contract is automatically renewable at the end of the fiscal year;

(b) Shall expire on or before June 30 of each fiscal year unless approved by the Department for Public Health; and

(c) May be extended into the new fiscal year by filing a formal contract extension, approved by the Department for Public Health.

(9)[~~(10)~~] Either party shall have the right to terminate a contract at any time upon notice to the other party.

(a) A local health department may add a clause to a contract requiring up to a ninety (90) day notice prior to termination.

(b) Confirmation of termination shall be in writing and a copy of the notice of termination shall be provided to the Department for Public Health.

(10) All local health department contracts and amendments are subject to review by the Department for Public Health. [~~(11) For a contract exceeding $10,000, contract payments shall not be made to a proposed contractor until the Department for Public Health has reviewed the contract and the contract has been returned to the local health department.~~]

(a) If the Department for Public Health questions the legality, propriety, necessity, rate of compensation, or description of services, in a contract, the department shall notify the local health department of its concerns.

(b) A contract for which clarification is requested by the Department for Public Health shall be put on hold until a review has been completed.

(11)[~~(12)~~] A contract may be modified at any time, and [~~.~~

~~(a)~~] a proposed change shall be accomplished by formal contract amendment. [~~(b) If the total value of a contract plus the proposed amendment exceeds $10,000, the amendment shall be submitted to the Department for Public Health for review prior to implementation.~~

~~(13)(a) A local health department may enter into a contract with a public or private entity to provide needed health services. A standard contract form may be used for these types of contracts.~~

~~(b) For a contract exceeding $10,000, services may not be provided until the Department for Public Health has reviewed the contract and returned it to the local health department.~~

Section 8. Disposition of Assets, Surplus, or Excess Property.

(1) If one (1) or more counties withdraw from a district health department, the following policies shall apply to the disposition of surplus receipts, assets, and liabilities:

(a) Program [~~Project~~] restricted surplus receipts or supplies, inventories or equipment shall be retained by the district health department except in the case of complete dissolution of the district. If the district is dissolved, program [~~project~~] restricted surplus receipts and items shall be equitably distributed to the county or counties proportionate to their taxing district or fiscal court participation in the district.[~~;~~]

(b) Unrestricted receipts, supplies, and inventories shall be divided among district and withdrawing county boards of health proportionate to the ratio of local taxing district support provided by each county in the year preceding the withdrawal; [~~Unrestricted surplus receipts shall be divided among the district and the withdrawing county boards of health according to the ratio of local support provided by each party in the year preceding the withdrawal;~~]

(c)[~~Unrestricted supplies and inventories shall be divided among the district and the withdrawing county boards of health according to the ratio of local support provided by each party in the year preceding the withdrawal. The Department for Public Health shall approve the disposition of supplies and inventories;~~

~~(d)~~] Deficits shall be charged to the district and withdrawing county boards of health according to the ratio of local taxing district or fiscal court support provided by each party in the year preceding the withdrawal;

(d)[~~(e)~~] Equipment purchased by withdrawing county boards of health prior to the organization of the district shall be returned to the board which originally purchased the equipment;

(e)[~~(f)~~] Equipment purchased during the operation of the district shall be divided among the district and the withdrawing boards of health according to the ratio of local taxing district or fiscal court support provided by the withdrawing county boards of health to the total local taxing district or fiscal court support of the district in the year preceding the withdrawal:

1. The net inventoried book value of the equipment shall be used in determining the distribution.

2. The Department for Public Health shall approve the final disposition of equipment.

(f)[~~(g)~~] Buildings owned by the district board of health shall remain the property of the district health department. If total dissolution of a district health department occurs, buildings owned by the district shall be sold according to the policies of the Department for Public Health and the proceeds shall be added to the surplus receipts of the district to be divided according to the procedures listed in this subsection; and

(g)[~~(h)~~] The Department for Public Health shall approve the disposition of assets and liabilities.

(2) A local health department may sell or dispose of any real or personal property including intangible property which is not needed or has become unsuitable for use.

(3) The funding source shall be contacted for the exact requirements. Property purchased with restricted funds may have disposal requirements in addition to or instead of the following requirements:

(a) A written determination as to need or suitability of any property of the local health department shall be made, and shall fully describe the property; its intended use at the time of acquisition, and the reasons why it is in the public interest to dispose of the item;

(b) Surplus or excess property may be transferred, with or without compensation, to another governmental agency; or it may be sold at public auction or by sealed bids. The highest bid shall be accepted. Other methods of disposition of surplus or excess property shall not be allowable;

(c) If a local health department receives no bids for surplus or excess property, either at public auction or by sealed bid, or reasonably determines that the aggregate value of the item is less than $500, the property may be disposed of, consistent with the public interest, in any manner determined appropriate by the local health department. A written description of the property, the method of disposal, and the amount of compensation, if any, shall be made; and

(d) Any compensation resulting from the disposal of surplus or excess property shall be deposited in the local health department's bank account. If the property was purchased with restricted funds, appropriate accounting of the compensation received shall be made as required by OMB Circular A-87, incorporated by reference.

Section 9. Bank Accounts and Investments. (1) Fidelity bonding shall be obtained on local health department employees and board of health members who handle funds of the local health department.

(a) An individual who makes deposits or signs checks or other instruments on local health department checking or investment accounts or certificates shall be bonded.

(b) Employees or board members shall be bonded in an amount sufficient to cover the total amount of funds to which they have access at any one (1) time.

(2) Local health departments may invest and reinvest money subject to their control and jurisdiction in the following investments:

(a) Obligations of the United States and of its agencies and instrumentalities. These investments may be accomplished through repurchase agreements reached with national or state banks chartered in Kentucky; and bonds or certificates of indebtedness of the state of Kentucky and of its agencies and instrumentalities;

(b) A savings and loan association insured by an agency of the government of the United States up to the amount so insured; and

(c) Interest-bearing deposits, or other authorized insurance instruments, in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts if the bank shall pledge as security, obligations as permitted by KRS 41.240(4), having a current quoted market value at least equal to uninsured deposits.

(3) A local health department may hold funds in its local bank account in a federally-insured bank at the minimum level necessary for efficient operations.

(4) Local health department funds shall not be transferred to a public health taxing district account or to an account not reported in the local health department financial statements.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "OMB-87 - Cost Principles for State, Local and Indian Tribes Government, "edition 5/04; and

(b) "OMB-A-102 - Grants and Cooperative Agreement with State and Local Government".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Public Health, Division of Administration and[~~Resource Management,~~] Financial Management[~~Branch~~], 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

WILLIAM D. HACKER, M.D., FAAP, CPE, Commissioner
JANIE MILLER, Secretary

APPROVED BY AGENCY: May 11, 2011

FILED WITH LRC: May 12, 2011 at 3 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 21, 2011 at 9 a.m. in the Conference Suite A of the Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2011, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of

business June 30, 2011. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Glass 502-564-6663 ext.3609

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum fiscal and financial management policies and standards of operation for Kentucky's local health departments, except if a specific Kentucky revised statute requires a more stringent minimum requirement.

(b) The necessity of this administrative regulation: This administrative regulation establishes minimum administrative and operational requirements for Kentucky's local health departments in order to provide consistent procedures among all local health departments with the exception of Lexington/Fayette County Health Department, Louisville/Jefferson County Health Department and the Northern Kentucky District Health Department including the counties of Boone, Campbell, Grant and Kenton.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The Cabinet has responsibility under KRS 194A.050 (1), 211.170, and 211.180 to establish policies governing the activities and practices of the local health departments, supervise their financial, personnel, program, and administrative functions, and establish standards of operations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures consistent practices in the Kentucky local health departments by providing uniform policies and standards of operation.

(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 includes grammatical changes that will provide more clarity to the wording of the regulation. It also allows more decision-making authority for the county and district public health department directors in the operation and activities of their local health departments.

(b) The necessity of the amendment to this administrative regulation: This regulation is being amended based on collaborative agreements between the state and local health departments to bring more clarity and flexibility to local health department operations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment provides a mechanism of establishing consistent and updated administrative and operational practices for the local health departments of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in establishing policies governing the activities and practices of the local health departments. It will also assist in supervising the local health departments' financial, program, administrative and other functions. Additionally, in accordance with KRS 212.120, standards of operation are established.

(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 all local health departments in all counties with the exception of Lexington/Fayette County Health Department, Louisville/Jefferson County Health Department and the Northern Kentucky District Health Department including the counties of Boone, Campbell, Grant and Kenton.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity listed above will be required to be knowledgeable of the updated terminology and flexibility provided by this amendment

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The local health departments will not incur any additional costs to implement this regulation amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will establish consistency in the fiscal and financial management policies and standards of operation for Kentucky's local health departments and provide agreed to flexibility in local health department operations.

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

(a) Initially: No new state or local dollars are required to implement this regulation.

(b) On a continuing basis: No new state or local dollars are required on a continuing basis to implement this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? No funds beyond existing funds will be needed to implement 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 required to implement this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or increase any fees, directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect all local health departments in all counties with the exception of Lexington/Fayette County Health Department, Louisville/Jefferson County Health Department and the Northern Kentucky District Health Department including the counties of Boone, Campbell, Grant and Kenton.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The following state statutes require or authorize this administrative regulation amendment: The Cabinet has responsibility under KRS 194A.050 (1), 211.170, and 211.180 (1), 212.230, 212.240, 212.245,and 212.890 to establish policies governing the activities and practices of the local public health departments, supervise their financial, personnel, program, and administrative functions, and establish standards of operations.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation amendment will not generate any revenue for any unit of state or local government in its first year of implementation

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation amendment will not generate any revenue for any unit of state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? These will no additional costs to implement this amendment in the first year.

(d) How much will it cost to administer this program for subse-

quent years? These will no additional costs to implement this amendment in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MAY 15, 2011

GENERAL GOVERNMENT CABINET
Board of Auctioneers
(Repealer)

201 KAR 3:081. Repeal of 201 KAR 3:015 and 3:080.

RELATES TO: KRS 330.070(1), 330.220
STATUTORY AUTHORITY: KRS 330.070(1), 330.220
NECESSITY, FUNCTION, AND CONFORMITY: 201 KAR 3:015 has been superseded by KRS 330.070(1). KAR 3:080 has been superseded by KRS 330.220. KRS 330.070 defines the experience requirements for an apprentice auctioneer before he is eligible to take the examination to become a principal auctioneer. KRS 330.220 prohibits misrepresentation and fraudulent advertising at absolute auctions.

Section 1. The following regulations are hereby repealed:
(a) 201 KAR 3:015, Experience requirements for principal auctioneers; and
(b) 201 KAR 3:080, Absolute auction.

This is to certify that the chief officer has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 156.070 (4).

GLENN BIRDWHISTELL, Chairman
APPROVED BY AGENCY: May 3, 2011
FILED WITH LRC: May 13, 2011 at 9 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2011 at 10 a.m. Eastern Time at the Kentucky Board of Auctioneers, 9112 Leesgate Rd # 5, Louisville, Kentucky 40222-5054. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, or 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 June 30, 2011. Send written notifications of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
CONTACT PERSON: Stephen Van Zant, General Counsel, 2819 Ring Road, Elizabethtown, Kentucky 42701, phone (270) 765-4196, fax (270) 737-4790.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Van Zant
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation repeals 201 KAR 3:015 and 3:080.
(b) The necessity of this administrative regulation: Both of these regulations have been superseded by statute. KAR 3:015 has been superseded by KRS 330.070(1). KAR 3:080 has been superseded by KRS 330.220.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation eliminates confusion concerning auctioneer apprentice requirements and absolute auction rules since both are now more specifically covered by statute.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This repeal of regulations eliminates confusion with auctioneer law.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: No
(a) How the amendment will change this existing administrative regulation: Repeal of these two regulations makes clear that auctioneer must comply with pertinent statutes.
(b) The necessity of the amendment to this administrative regulation: This repeal is necessary in order to avoid confusion in the pertinent subject matters.
(c) How the amendment conforms to the content of the authorizing statutes: Since the legislature has spoken on these subject matters, the statutes in question should control.
(d) How the amendment will assist in the effective administration of the statutes: This repeal will avoid confusion.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky auctioneers.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The repeal of these two regulations will assist auctioneers and apprentice auctioneers by giving them clear statutory requirements without duplication and contradiction being contained in administrative regulations.
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None, other than compliance with existing statutes.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The repeal of these regulations will not cost licensed auctioneers or apprentice auctioneers any additional money.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The repeal of these regulations will bring clarity to the subject matters.
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no additional cost to licensees since they are already bound by the enacted statutes.
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No
(9) TIERING: Is tiering applied? Tiering is not applied. The repeal of these two regulations is necessary so that all licensees will be governed by the appropriate Kentucky statutes (KRS 330.070 for experience requirements for apprentice auctioneers and KRS 330.220 for absolute auctions regulation).

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Auctioneers will be affected by this regulation.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 201 KAR 3:015 has been superseded by KRS 330.070(1). 201 KAR 3:080 has been superseded by KRS 330.220. This regulation is necessary so that these regulations do not contradict statute.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This regulation will not affect expenditures or revenues of a governmental agency.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year?

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Auctioneers
(New Administrative Regulation)

201 KAR 3:090. Administrative Fees for Applications and Services.

RELATES TO: KRS 330.070, KRS 330.192

STATUTORY AUTHORITY: KRS 330.070.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 330.070 authorizes the Board of Auctioneers to promulgate administrative regulations concerning license fees, late fees for continuing education completion, fees associated with pocket licenses, and change of address fees. KRS 330.192 authorized the Board of Auctioneers to promulgate administrative regulations concerning the auctioneer's education, research, and recovery fund. This administrative regulation establishes necessary fees associated with acquiring and maintaining auctioneer licenses.

Section 1. License Application and Renewal Fees. (1) The license fee for each new applicant with the Kentucky Board of Auctioneers shall not exceed $150.

(2) The license renewal fee shall be paid as of June 30th of each year.

(a) The license renewal fee shall not exceed $150 if paid by June 30th of each year.

(b) The license renewal fee during the six (6) month grace period after June 30th shall not exceed $150, in addition to a late fee not to exceed $100.

(c) The license renewal fee after the six (6) month grace period, but paid prior to June 30th of the following year, shall not exceed $150, in addition to a late fee not to exceed $150.

(3) The license renewal and late fees for apprentice auctioneers shall be equal to the fees set forth in Section A (1) and (2) herein.

Section 2. Late Continuing Education Completion. (1) A licensee who has failed to complete the required continuing education credits in the time period set forth by statute must remit a fee of not more than $300, and in addition, must complete twice the amount of continuing education credits set forth by statute within the following year.

Section 3. Replacement of License or Pocket License. (1) The fee for replacement of a license shall be fifteen (15) dollars.

(2) The fee for replacement of a pocket license shall be fifteen (15) dollars.

Section 4. Reactivation of License. (1) The fee to reactivate a license which has previously been placed in escrow status shall not exceed $150. In addition, the licensee must have completed the continuing education credits set forth by statute for the current year.

Section 5. Change of Address Fees. (1) The fee for a Residential Change of Address shall not exceed fifteen (15) dollars.

(2) The fee for a Business Change of Address shall not exceed fifteen (15) dollars.

Section 6. Education, Research, and Recovery Fund. (1) The Kentucky Board of Auctioneers may assess each new applicant and each renewal licensee a fee not to exceed fifty (50) dollars per year for the Education, Research, and Recovery Fund.

This is to certify that the chief officer has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 156.070 (4).

GLENN BIRDWHISTELL, Chairman

APPROVED BY AGENCY: May 3, 2011

FILED WITH LRC: May 13, 2011 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 28, 2011 at 10 AM Eastern Time at the Kentucky Board of Auctioneers, 9112 Leesgate Rd # 5, Louisville, Kentucky 40222-5054. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, or 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 June 30, 2011. Send written notifications of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephen Van Zant, General Counsel, 2819 Ring Road, Elizabethtown, Kentucky 42701, phone (270) 765-4196, fax (270) 737-4790.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen Van Zant

(1) Provide a brief summary of:

(a) What this administrative regulation does: In accordance with KRS 330.070 this regulation establishes fees associated with holding an auctioneer's license.

(b) The necessity of this administrative regulation: Clarifies fees associated with holding an auctioneer's license.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation specifies fees associated with holding an auctioneer's license as authorized by KRS 33.070.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation clarifies fees associated with holding an auctioneer's license.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: This is a new regulation.

(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: This regulation will affect those persons holding a Kentucky auctioneer's license and an apprentice auctioneer's license, and also those holding a Kentucky auction house license.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation will not cause auction licensees to take any additional actions than those actions already required to hold and maintain licenses.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost for a new applicant will be increased from $100 to $150. The cost of a renewal fee will be increased from $130 to $150. The cost of a replacement license will remain the same. The cost of a replacement pocket license will remain the same. The renewal late fee during the six-month grace period will remain the same. The cost to reactivate a license will be decreased from $230 to $150. The change of address fee will be increased from $10 to $15.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Fee revenue from licensees enables the Kentucky Board of Auctioneers to provide staff and office space to serve licensees, as well as investigative and legal staff to investigate and regulate the auction industry in Kentucky. Revenue from fees also allows the board to provide continuing education opportunities for licensees.

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

(a) Initially: Application fee is increased from $100 to $150.

(b) On a continuing basis: Renewal fee is increased from $130 to $150.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding will come from Kentucky auction licensees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be a $50 increase for new applicants and a $20 increase in renewal fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment slightly increases fees associated with holding an auctioneer license.

(9) TIERING: Is tiering applied? Tiering is not applied. The Board of Auctioneers is not aware of any way it can further break down the cost for licensure application, renewal and other associated expenses in any other categories than that contained in this regulation. This administrative regulation treats all licensed auctioneers and auction houses the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This regulation will affect the Kentucky Board of Auctioneers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 330.070 authorized the Board of Auctioneers to promulgate administrative regulations concerning license fees, late fees for continuing education completion, fees associated with pocket licenses, and change of address fees. KRS 330.192 authorized the Board of Auctioneers to promulgate administrative regulations concerning the auctioneer's education, research, and recovery fund. This administrative regulation establishes necessary fees associated with acquiring and maintaining auctioneer licenses.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. It is estimated that revenue for the Kentucky Board of Auctioneers will be increased.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is estimated that revenue for the Kentucky Board of Auctioneers will be increased $25,000 to 40,000 for subsequent years.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

(c) How much will it cost to administer this program for the first year? There will be no additional cost to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Dentistry
(New Administrative Regulation)

201 KAR 8:532. Licensure of dentists.

RELATES TO: KRS 39A.350 - 366, 214.615, 304.040 - 075, 313.010(9), 313.030, 313.035, 313.080, 313.130, 313.245

STATUTORY AUTHORITY: KRS 214.615(2), 313.020(2), 313.021(1)(a), (b), (c), 313.035(1), (3), 313.254

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.035 requires the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dentists. This administrative regulation establishes requirements and procedures for licensure of dentists.

Section 1. General Licensure Requirements. An applicant desiring dental licensure in the Commonwealth shall at a minimum:

(1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(2) Submit a completed, signed, and notarized Application for Dental Licensure with an email contact address and with an attached applicant photo taken within the past six (6) months;

(3) Pay the fee required 201 KAR 8:520;

(4) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(5) Provide proof of completion of the requirements of KRS 214.615(1);

(6) Complete and pass the board's jurisprudence exam;

(7) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) which meets or exceeds the guidelines set forth by the American Heart Association;

(8) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint;

(9) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;

(10) Provide proof that the applicant is a graduate of a Commission on Dental Accreditation (CODA) accredited dental school or college or dental department of a university;

(11) Provide proof that the applicant has successfully completed Part I and Part II of the National Board Dental Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations; and

(12) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

Section 2. Requirements for Licensure by Examination. (1) Each individual desiring initial licensure as a dentist by examination shall complete all of the requirements listed in Section 1 of this administrative regulation.

(2) Each individual desiring initial licensure as a dentist by examination shall successfully complete a clinical examination within the five (5) years preceding the filing of his application.

(a) Prior to July 15, 2013, the board shall accept the following regional clinical examinations:

1. The examination of the Council of Interstate Testing Agencies (CITA);

2. The examination of the Central Regional Dental Testing Service (CRDTS);

3. The examination of the North East Regional Board of Dental Examiners (NERB);

4. The examination of the Southern Regional Testing Agency (SRTA); and

5. The examination of the Western Regional Examining Board (WREB).

(b) After July 15, 2013, the board shall only accept a nationalized clinical examination.

(3) An individual desiring initial licensure as a dentist by examination more than two (2) years after fulfilling all of the requirements of his CODA accredited dental education shall:

(a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or

(b) If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior to receiving a license to practice dentistry in the Commonwealth of Kentucky.

(4) An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall not be allowed to sit for the examination again until the applicant has completed and passed a remediation plan approved by the board.

Section 3. Requirements for Licensure by Credentials. Each individual desiring initial licensure as a dentist by credentials shall:

(1) Complete all of the requirements listed in Section 1 of this administrative regulation;

(2) Provide proof of having passed a state, regional, or national clinical examination used to determine clinical competency in a state or territory of the United States or the District of Columbia; and

(3) Provide proof that, for five (5) of the six (6) years immediately preceding the filing of the application, the applicant has been engaged in the active practice of dentistry when he or she was legally authorized to practice dentistry in a state or territory of the United States or the District of Columbia if the qualifications for the authorization were equal to or higher than those of the Commonwealth of Kentucky.

Section 4. Requirements for Student Limited Licensure. (1) Each individual desiring a student limited license shall:

(a) Complete all of the requirements listed in Section 1 of this administrative regulation with the exception of subsections (10) and (11);

(b) Provide a letter from the dean or program director of a postgraduate, residency, or fellowship program in the Commonwealth of Kentucky stating that the applicant has been accepted into a program and the expected date of completion;

(c) Submit a signed Statement Regarding Student Licensure Limitations; and

(d) Submit an official final transcript of the applicant's dental coursework with degree posted.

(2) An individual licensed under this section shall only practice dentistry in conjunction with programs of the dental school where the individual is a student and shall only provide professional services to patients of these programs.

(3) Licenses issued under this section shall be renewed with all other dental licenses issued by the board and shall automatically expire upon the termination of the holder's status as a student.

(4) A program enrolling an individual holding a student limited license shall notify the board in writing of the date the student graduates from or exits the program.

(5) Nothing in this section shall prohibit:

(a) A student from performing a dental operation under the supervision of a competent instructor within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize a student of any dental college, school, or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or a charitable institution. A fee shall not be accepted by the student beyond the expenses provided by the stipend;

(b) A student limited license holder from working under the general supervision of a licensed dentist within the confines of the postgraduate training program; and

(c) A volunteer health practitioner from providing services under KRS 39A.350-366.

Section 5. Requirements for Faculty Limited Licensure. (1) Each individual desiring a faculty limited license shall:

(a) Complete all of the requirements listed in Section 1 of this administrative regulation with the exception of subsections (10) and (11);

(b) Provide a letter from the dean or program director of the dental school showing a faculty appointment with one (1) of the Commonwealth's dental schools;

(c) Submit a signed Statement Regarding Faculty Licensure Limitations; and

(d) Submit an official final transcript of his dental coursework with degree posted.

(2) An individual licensed under this section shall only practice dentistry in conjunction with programs of the dental school where the individual is a faculty member and shall only provide professional services to patients of these programs.

(3) Licenses issued under this section shall be renewed with all other dental licenses issued by the board and shall automatically expire upon the termination of the holder's status as a faculty member.

(4) A program employing an individual holding a faculty limited license shall notify the board in writing of the date the licensee exits the program.

Section 6. Requirements for Licensure of Foreign Trained Dentists. (1) Each individual desiring licensure as a dentist who is a graduate of a non-CODA accredited dental program shall successfully complete two (2) years of postgraduate training in a CODA accredited general dentistry program and shall:

(a) Provide proof of having passed the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service with a score of 650 on the paper-based examination or a score of 116 on the internet-based examination, if English is not the applicant's native language;

(b) Submit a completed, signed, and notarized Application for Dental Licensure with an email contact address and with an attached applicant photo taken within the past six (6) months;

(c) Pay the fee required by 201 KAR 8:520;

(d) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(e) Provide proof of having completed the requirements of KRS 214.615(1);

(f) Complete and pass the board's jurisprudence exam;

(g) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the guidelines set forth by the American Heart Association;

(h) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint;

(i) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;

(j) Provide proof of having successfully completed two (2) years postgraduate training in a CODA accredited general dentistry program;

(k) Submit one (1) letter of recommendation from the program director of each training site;

(l) Provide proof of successful completion of Part I and Part II of the National Board Dental Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations within the five (5) years preceding application for licensure;

(m) Provide proof of successfully completing within the five (5) years prior to application a clinical examination approved in Section 2(2) of this administrative regulation; and

(n) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) An individual desiring initial licensure as a dentist who is a graduate of a non-CODA accredited dental program and applies more than two (2) years after fulfilling all of the requirements of his post-graduate training in a CODA accredited general dentistry program shall:

(a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or

(b) If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior to receiving a license to practice dentistry in the Commonwealth of Kentucky.

Section 7. Requirements for Charitable Limited Licensure. (1) Each individual desiring a charitable limited license shall:

(a) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(b) Submit a completed, signed, and notarized Application for Charitable Dental Licensure with an attached applicant photo taken within the past six (6) months;

(c) Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(d) Have a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; and

(e) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) An individual licensed under this section shall:

(a) Work only with charitable entities registered with the Cabinet for Health and Family Services that have met the requirements of KRS 313.254 and 201 KAR 8:580;

(b) Only perform procedures allowed by KRS 313.010(9) which shall be completed within the duration of the charitable event;

(c) Be eligible for the provisions of medical malpractice insurance procured under KRS 304.40-075;

(d) Perform these duties without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer; and

(e) Have a charitable limited license that shall be valid for no more than two (2) years and shall expire during the regular dental renewal cycle.

(f) Comply with reciprocity requirements if applicable.

1. A state that extends a reciprocal agreement shall comply with this section.

2. An individual shall notify the sponsor of a charitable clinic and the board of the intent to conduct or participate in the clinic.

3. An individual conducting or participating in a charitable clinic shall have a license to practice dentistry in the state in which the dentist practices.

Section 8. Requirements for Specialty Licensure. Each individual desiring initial licensure as a specialist as defined by KRS 313.010 shall:

(1) Submit a completed, signed, and notarized Application for Specialty Licensure with an attached applicant photo taken within the past six (6) months;

(2) Pay the fee required by 201 KAR 8:520;

(3) Hold an active Kentucky license to practice general dentistry prior to being issued a specialty license; and

(4) Submit satisfactory evidence of completing a CODA accredited graduate or postgraduate specialty program after graduation from a dental school.

Section 9. Minimum Continuing Education Requirements. (1) Each individual desiring renewal of an active dental license shall complete thirty (30) hours of continuing education that relates to or advances the practice of dentistry and would be useful to the licensee's practice.

(2) Acceptable continuing education hours shall include course content designed to increase:

(a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental treatment;

(b) Knowledge of pharmaceutical products and the protocol of the proper use of medications;

(c) Competence to diagnose oral pathology;

(d) Awareness of currently accepted methods of infection control;

(e) Knowledge of basic medical and scientific subjects including, biology, physiology, pathology, biochemistry, pharmacology, epidemiology, and public health;

(f) Knowledge of clinical and technological subjects;

(g) Knowledge of subjects pertinent to patient management, safety, and oral healthcare;

(h) Competency in assisting in mass casualty or mass immunization situations;

(i) Clinical skills through the volunteer of clinical charitable dentistry that meets the requirements of KRS 313.254;

(j) Knowledge of office business operations and best practices; or

(k) Participation in dental association or society business meetings.

(3) A minimum of ten (10) hours shall be taken in a live interactive presentation format.

(4) A maximum of ten (10) hours total may be taken that meet the requirements of subsection (2)(i) - (k) of this section.

(5) All continuing education hours shall be verified by the receipt of a certificate of completion or certificate of attendance bearing:

(a) The signature of or verification by the provider;

(b) The name of the licensee in attendance;

(c) The title of the course or meeting attended or completed;

(d) The date of attendance or completion;

(e) The number of hours earned; and

(f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.

(6) It shall be the sole responsibility of the individual licensee to obtain documentation from the provider or sponsoring organization verifying participation as established in subsection (5) of this section and to retain the documentation for a minimum of five (5) years.

(7) At license renewal, each licensee shall attest to the fact that he or she has complied with the requirements of this section.

(8) Each licensee shall be subject to audit of proof of continuing education compliance by the board.

Section 10. Requirements for Renewal of a Dental License. (1) Each individual desiring renewal of an active dental license shall:

(a) Submit a completed and signed, signed, and notarized Application for Renewal of Dental Licensure with an email contact address and with an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Maintain with no more than a thirty (30) day lapse CPR certification that meets or exceeds the guidelines set forth by the American Heart Association unless a hardship waiver is submitted to and subsequently approved by the board;

(d) Meet the requirements of KRS 214.615(1) regarding HIV/AIDS education for healthcare providers; and

(e) Meet the continuing education requirements as outlined in Section 9 of this administrative regulation except in the following cases:

1. If a hardship waiver has been submitted to and is subsequently approved by the board;

2. If the licensee graduated in the first year of the renewal biennium, in which case the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation; and

3. If the licensee graduated in the second year of the renewal biennium, in which case the licensee shall not be required to complete the continuing education requirements outlined in Section 9 of this administrative regulation.

(2) If a licensee has not actively practiced dentistry in the two (2) consecutive years preceding the filing of the renewal applica-

tion, he or she shall complete and pass a board approved refresher course prior to resuming the active practice of dentistry.

Section 11. Retirement of a License. (1) Each individual desiring retirement of a dental license shall submit a completed and signed Retirement of License Form.

(2) Upon receipt of this form, the board shall send written confirmation of retirement to the last known address of the licensee.

(3) A licensee shall not retire a license that has a pending disciplinary action against it.

(4) Each retirement shall be effective upon the processing of the completed and signed Retirement of License Form by the board.

Section 12. Reinstatement of a License. (1) Each individual desiring reinstatement of a properly retired dental license shall:

(a) Submit a completed, signed, and notarized Application to Reinstate a Dental License with an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Show proof of having current certification in CPR that meets or exceeds the guidelines set forth by the American Heart Association;

(d) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;

(e) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint; and

(f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) If an individual is reinstating a license that was retired within the two (2) consecutive years immediately preceding the filing of the reinstatement application, the individual shall provide proof of having met the continuing education requirements as outlined in Section 9 of this administrative regulation within those two (2) years.

(3) If the applicant has not actively practiced dentistry in the two (2) consecutive years immediately preceding the filing of the reinstatement application, the applicant shall complete and pass a refresher course approved by the board.

(4) If a license is reinstated in the first year of a renewal biennium, the licensee shall complete all of the continuing education requirements as outlined in Section 9 of this administrative regulation prior to the renewal of the license.

(5) If a license is reinstated in the second year of a renewal biennium, the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation prior to the renewal of the license.

Section 13. Requirements for Verification of Licensure. Each individual desiring verification of a dental license shall:

(1) Submit a signed and completed Verification of Licensure or Registration Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 14. Requesting a Duplicate License. Each individual desiring a duplicate dental license shall:

(1) Submit a signed and completed Duplicate License or Registration Request Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 15. Issuance of Initial Licensure. If an applicant has completed all of the requirements for licensure within six (6) months of the date the application was received at the office of the board, the board shall:

(1) Issue a license in sequential numerical order; or

(2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Dental Licensure", January 2011;

(b) "Statement Regarding Student Licensure Limitations", July 2010;

(c) "Statement Regarding Faculty Licensure Limitations", July 2010;

(d) "Application for Charitable Dental Licensure," July 2010;

(e) "Application for Specialty Licensure", July 2010;

(f) "Application for Renewal of Dental Licensure", January 2011;

(g) "Retirement of License Form", July 2010;

(h) "Application to Reinstate a Dental License", July 2010;

(i) "Verification of Licensure or Registration Form", July 2010;

(j) "Duplicate License or Registration Form", July 2010; and

(k) "American Heart Association CPR Guidelines", 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

DR. C. MARK FORT, DMD, President

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: April 21, 2011 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 30, 2011, at 9:00 a.m. at the office of the Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, KY 40222. Individuals interested in being heard at this hearing shall notify this agency in writing no later than 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 emergency 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 emergency administrative regulation. Written comments shall be accepted until June 30, 2011. Send written notification of intent to be heard at the public hearing or written comments on the emergency administrative regulation to the contact person.

CONTACT PERSON: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email briank.bishop@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Brian K. Bishop, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for the licensure of dentists as mandated by KRS 313.035.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement KRS 313.035, which requires the board to promulgate administrative regulations regarding the licensure of dentists.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary about the classification of and licensure of dentists, by examination or credentials, the licensure of specialists, student limited licenses, faculty limited licenses, reciprocity, retirement of a license, reinstatement of a license, charity licenses and renewal programs as required by KRS 313.035.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets out the procedure for the licensure of dentists, by examination or credentials, the licensure of specialists, student limited licenses, faculty limited licenses, reciprocity, retirement of a license, reinstatement of a license, charity licenses and renewal programs as required by KRS 313.035.

(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 statute: 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 will impact 3119 currently licensed dentists and approximately 125 new applicants per year. Additionally, the Kentucky Board of Dentistry will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no new actions for licensees to take in order to comply with this administrative regulation. The Kentucky Board of Dentistry is charged by KRS 313.035 to regulate the practice of dentistry in the Commonwealth.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): From 201 KAR 8:520E:

The initial licensure fee for a general dental license applied for in a non-renewal year shall be $325.

The initial licensure fee for a general dental license applied for in a renewal year shall be $175.

The renewal fee for a general dental license appropriately renewed on or before the expiration of the license shall be $295.

The renewal reinstatement fee for a general dental license renewed between January 1 and January 15 of the year following the expiration of the license shall be $280 in addition to the renewal fee.

The renewal reinstatement fee for a general dental license renewed between January 16 and January 31 of the year following the expiration of the license shall be $560 in addition to the renewal fee.

The renewal reinstatement fee for a general dental license renewed on or after February 1 of the year following the expiration of the license shall be $1,120 in addition to the renewal fee.

The initial fee for a dental anesthesia or sedation permit shall be $250.

(The renewal fee for a dental anesthesia or sedation permit shall be seventy-five (75) dollars and is in addition to the renewal fee for a general dental license.

The initial fee for an anesthesia or sedation facility certificate shall be $250.

The renewal fee for an anesthesia or sedation facility certificate shall be seventy-five (75) dollars.

The specialty license application fee shall be $100.

The specialty license renewal fee shall be fifty (50) dollars and is in addition to the renewal fee for a general dental license.

The fee for reinstatement of a properly retired general dental license shall be $350.

The fee for reinstatement of a properly retired specialty license shall be fifty (50) dollars and is in addition to the renewal fee for a general dental license. The Board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of $705,400 and for FY 2011 – 2012 and allotment of $714,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Kentucky Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for its licensees to legally practice dentistry in the Commonwealth.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The Board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of $705,400 and for FY 2011 – 2012 and allotment of $714,000. The Kentucky Board of Dentistry receives no monies from the General Fund.

(a) Initially: No additional costs are expected.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The implementation and enforcement of this regulation are fully funded by licensing fees paid by dentists as part of compliance with 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: The fees found in 201 KAR 8:520E make the agency financially solvent.

(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? This administrative regulation applies tiering by identifying each classification of licensure available to dentists in the Commonwealth of Kentucky. General dental licenses are the standard, full license type available, and applicants are therefore subject to the full complement of requirements. Reporting requirements are reduced for student, faculty, and charitable limited license applicants as they are subject to restrictions of practice. Specialty license holders are subject to additional reporting requirements as they hold a more advanced license than general dentists.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 2010 Ky. Acts ch. 85

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no new net fiscal affect on the Kentucky Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(c) How much will it cost to administer this program for the first year? FY 2010 – 2011 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $705,400

(d) How much will it cost to administer this program for subsequent years? FY 2011 – 2012 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $714,000

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Dentistry
(New Administrative Regulation)

201 KAR 8:562. Licensure of dental hygienists.

RELATES TO: KRS 214.615, 304.40 - 075, 313.030, 313.040, 313.060, 313.080, 313.130, 313.254

STATUTORY AUTHORITY: KRS 214.615(2), 313.021(1)(a) - (c), 313.040(1), (2), (7), 313.254

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.040 requires the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dental hygienists. This administrative regulation establishes requirements and procedures for the licensure of dental hygienists.

Section 1. General Licensure Requirements. An applicant desiring licensure in the Commonwealth shall at a minimum:

(1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(2) Submit a completed, signed, and notarized Application for Dental Hygiene Licensure with an email contact address and an attached applicant photo taken within the past six (6) months;

(3) Pay the fee required by 201 KAR 8:520;

(4) Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(5) Provide proof of completion of the requirements of KRS 214.615(1);

(6) Complete and pass the board's jurisprudence exam;

(7) Provide proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the guidelines set forth by the American Heart Association, incorporated by reference in 201 KAR 8:531;

(8) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint;

(9) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dental hygiene held previously or currently in any state or jurisdiction;

(10) Provide proof that the applicant is a graduate of a Commission on Dental Accreditation (CODA) accredited dental hygiene school or college or dental hygiene department of a university;

(11) Provide proof that the applicant has successfully completed the National Board Dental Hygiene Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations; and

(12) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

Section 2. Requirements for Licensure by Examination. (1) Each individual desiring initial licensure as a dental hygienist by examination shall complete all of the requirements listed in Section 1 of this administrative regulation.

(2) Each individual desiring initial licensure as a dental hygienist by examination shall successfully complete a clinical examination within the five (5) years preceding the filing of his application.

(a) Prior to July 15, 2013, the board shall accept the following regional clinical examinations:

1. The examination of the Council of Interstate Testing Agencies (CITA);

2. The examination of the Central Regional Dental Testing Service (CRDTS);

3. The examination of the North East Regional Board of Dental Examiners (NERB);

4. The examination of the Southern Regional Testing Agency (SRTA); or

5. The examination of the Western Regional Examining Board (WREB).

(b) After July 15, 2013, the board shall only accept a nationalized clinical examination.

(3) An individual desiring initial licensure as a dental hygienist by examination more than two (2) years after fulfilling all of the requirements of his CODA accredited dental hygiene education shall:

(a) Hold a license to practice dental hygiene in good standing in another state or territory of the United States or the District of Columbia; or

(b) If the applicant does not hold a license to practice dental hygiene in good standing, complete a board approved refresher course prior to receiving a license to practice dental hygiene in the Commonwealth of Kentucky.

(4) An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall not be allowed to sit for the examination again until the applicant has completed and passed a remediation plan prescribed by the board based on the applicant's deficiencies.

Section 3. Requirements for Licensure by Credentials. Each individual desiring initial licensure as a dental hygienist by credentials shall:

(1) Complete all of the requirements listed in Section 1 of this administrative regulation;

(2) Provide proof of having passed a state, regional, or national clinical examination used to determine clinical competency in a state or territory of the United States or the District of Columbia; and

(3) Provide proof that, for five (5) of the six (6) years immediately preceding the filing of the application, the applicant has been engaged in the active practice of dental hygiene while he or she was legally authorized to practice dental hygiene in a state or territory of the United States or the District of Columbia if the qualifications for the authorization were equal to or higher than those of the Commonwealth of Kentucky.

Section 4. Requirements for Charitable Limited Licensure. (1) Each individual desiring a charitable limited license shall:

(a) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, otherwise known as Level 4, verified by testing as necessary;

(b) Submit a completed, signed, and notarized Application for Charitable Dental Hygiene Licensure with an attached applicant photo taken within the past six (6) month;

(c) Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(d) Have a license to practice dental hygiene in good standing in another state; and

(e) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) Individuals licensed under this section shall:

(a) Work only with charitable entities registered with the Cabinet for Health and Family Services which have met requirements of KRS 313.254and 201 KAR 8:580;

(b) Only perform procedures allowed by KRS 313.254, which shall be completed within the duration of the charitable event;

(c) Be eligible for the provisions of medical malpractice insurance procured under KRS 304.40-075;

(d) Perform these duties without expectation of compensation or charge to the individual and without payment or reimbursement by any governmental agency or insurer; and

(e) Have a charitable limited license that shall be good for two (2) years and expire during the regular dental hygiene renewal cycle.

(f) Comply with reciprocity requirements if applicable,

1. A state that extends a reciprocal agreement shall comply with this section.

2. An individual shall notify the sponsor of a charitable clinic and the board of the intent to conduct or participate in the clinic.

3. An individual conducting or participate in a charitable clinic shall have a license to practice dental hygiene in the state in which the dental hygienist practices.

Section 5. Minimum Continuing Education Requirements. (1) Each individual desiring renewal of an active dental hygiene license shall complete thirty (30) hours of continuing education that

relates to or advances the practice of dental hygiene and would be useful to the licensee in his practice.

(2) Acceptable continuing education hours shall include course content designed to increase:

(a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental hygiene treatment;

(b) Knowledge of pharmaceutical products and the protocol of the proper use of medications;

(c) Awareness of currently accepted methods of infection control;

(d) Knowledge of basic medical and scientific subjects including, biology, physiology, pathology, biochemistry, pharmacology, epidemiology, and public health;

(e) Knowledge of clinical and technological subjects;

(f) Knowledge of subjects pertinent to patient management, safety, and oral healthcare;

(g) Competency in assisting in mass casualty or mass immunization situations;

(h) Clinical skills through the volunteer of clinical charitable dental hygiene that meets the requirements of KRS 313.254;

(i) Knowledge of office business operations and best practices; or

(j) Participation in dental or dental hygiene association or society business meetings.

(3) A minimum of ten (10) hours shall be taken in a live interactive presentation format.

(4) A maximum of ten (10) hours total may be taken that meet the requirements of subsection (2)(h) - (j) of this section.

(5) All continuing education hours shall be verified by the receipt of a certificate of completion or certificate of attendance bearing:

(a) The signature of the provider;

(b) The name of the licensee in attendance;

(c) The title of the course or meeting attended or completed;

(d) The date of attendance or completion;

(e) The number of hours earned; and

(f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.

(6) It shall be the sole responsibility of the individual dental hygienist to obtain documentation from the provider or sponsoring organization verifying participation as outlined in subsection (5) of this section and to retain the documentation for a minimum of five (5) years.

(7) At license renewal, each licensee shall attest to the fact that he or she has complied with the requirements of this section.

(8) Each licensee shall be subject to audit of proof of continuing education compliance by the board.

Section 6. Requirements for Renewal of a Dental Hygiene License. (1) Each individual desiring renewal of an active dental hygiene license shall:

(a) Submit a completed, signed, and notarized Application for Renewal of Dental Hygiene Licensure with an email contact address and an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Maintain with no more than a thirty (30) day lapse CPR certification that meets or exceeds the guidelines set forth by the American Heart Association, incorporated by reference in 201 KAR 8:530, unless a hardship waiver is submitted to and subsequently approved by the board;

(d) Meet the requirements of KRS 214.615(1); and

(e) Meet the continuing education requirements as outlined in Section 5 of this administrative regulation except in the following cases:

1. If a hardship waiver has been submitted to and is subsequently approved by the board;

2. If the licensee graduated in the first year of the renewal biennium, in which case the licensee shall complete one-half (1/2) of the hours as outlined in Section 5 of this administrative regulation; and

3. If the licensee graduated in the second year of the renewal biennium, in which case the licensee shall not be required to complete the continuing education requirements outlined in Section 5 of this administrative regulation.

(2) If a licensee has not actively practiced dental hygiene in the two (2) consecutive years preceding the filing of the renewal application, he or she shall complete and pass a board approved refresher course prior to resuming the active practice of dental hygiene.

Section 7. Retirement of a License. (1) Each individual desiring retirement of a dental hygiene license shall submit a completed and signed Retirement of License Form.

(2) Upon receipt of this form, the board shall send written confirmation of retirement to the last known address of the licensee.

(3) A licensee shall not retire a license that has pending disciplinary action against it.

(4) Each retirement shall be effective upon the processing of the completed and signed Retirement of License Formby the board.

Section 8. Reinstatement of a License. (1) Each individual desiring reinstatement of a properly retired dental hygiene license shall:

(a) Submit a completed, signed, and notarized Application for Dental Hygiene Licensure with an email contact address and an attached applicant photo taken within the past six (6) months;

(b) Pay the fee required by 201 KAR 8:520;

(c) Show proof of having current certification in CPR that meets or exceeds the guidelines set forth by the American Heart Association, incorporated by reference in 201 KAR 8:531;

(d) Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dental hygiene held previously or currently in any state or jurisdiction;

(e) Submit to a criminal background check from the Administrative Office of the Courts in Kentucky, from the state or states of residence for the last five (5) years, or by fingerprint; and

(f) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) If an individual is reinstating a license that was retired within the two (2) consecutive years immediately preceding the filing of the reinstatement application, the individual shall provide proof of having met the continuing education requirements as outlined in Section 5 of this administrative regulation within those two (2) years.

(3) If the applicant has not actively practiced dental hygiene in the two (2) consecutive years immediately preceding the filing of the reinstatement application, the applicant shall complete and pass a refresher course approved by the board.

(4) If a license is reinstated in the first year of a renewal biennium, the licensee shall complete all of the continuing education requirements as outlined in Section 5 of this administrative regulation prior to the renewal of his license.

(5) If a license is reinstated in the second year of a renewal biennium, the licensee shall complete one-half (1/2) of the hours as outlined in Section 5 of this administrative regulation prior to the renewal of his license.

Section 9. Requirements for Verification of Licensure. Each individual desiring verification of a dental hygiene license shall:

(1) Submit a signed and completed Verification of Licensure or Registration Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 10. Requesting a Duplicate License. Each individual desiring a duplicate dental hygiene license shall:

(1) Submit a signed and completed Duplicate License or Registration Request Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 11. Requirements for Local Anesthesia Registration. (1) An individual who has completed a course of study in dental hygiene at a board-approved CODA accredited institution on or after July 15, 2010, which meets or exceeds the education requirements as established in KRS 313.060(10) shall be granted the

authority to practice local anesthesia upon the issuance by the board of a dental hygiene license.

(2) An individual licensed as a hygienist in Kentucky and not subject to disciplinary action who desires to administer local anesthesia and does not qualify to do so under Section 12(1) of this administrative regulation shall complete a training and education course as described in KRS 313.060(10).

(3) The training and education course shall be offered by at least one (1) of the following institutions in Kentucky:

(a) University of Louisville School of Dentistry;

(b) University of Kentucky College of Dentistry;

(c) Western Kentucky University Dental Hygiene Program; and

(d) Kentucky Community Technical College System Dental Hygiene Programs.

(4) Training received outside of Kentucky shall be from a CODA accredited dental or dental hygiene school and shall meet the requirements established in KRS 313.060(10).

(5) Once the required training is complete the applicant shall:

(a) Complete the Dental Hygiene Local Anesthesia Registration Application; and

(b) Pay the fee required by 201 KAR 8:520.

(6) Individuals authorized to practice under this provision shall receive a license from the board indicating registration to administer local anesthesia.

(7) A licensed dental hygienist shall not administer local anesthesia if the licensee does not hold a local anesthesia registration issued by the board.

(8) Any licensed dental hygienist holding a local anesthesia registration from the board who has not administered block anesthesia, infiltration anesthesia, or nitrous oxide analgesia for one (1) year shall complete a board approved refresher course prior to resuming practice of that specific technique.

Section 12. Requirements for General Supervision Registration. (1) An individual licensed as a hygienist in Kentucky and not subject to disciplinary action who desires to practice under general supervision shall:

(a) Complete the General Supervision Registration Application;

(b) Meet the requirements of KRS 313.040(7)(a);

(c) Document through payroll records, employment records, or other proof that is independently verifiable the dates and hours of employment by a dentist in the practice of dental hygiene that demonstrate the required two (2) years and 3,000 hours of experience;

(d) Successfully complete a live three (3) hour course approved by the board in the identification and prevention of potential medical emergencies that shall include, at a minimum, the following topics:

1. Medical history, including American Society of Anesthesiologists (ASA) classifications of physical status;

2. Recognition of common medical emergency situations, symptoms, and possible outcomes;

3. Office emergency protocols; and

4. Prevention of emergency situations during dental treatments.

(2) An individual authorized to practice under these provisions shall receive a license from the board indicating registration to practice under general supervision.

(3) A dentist who employs a dental hygienist who has met the standards of this administrative regulation and who allows the dental hygienist to provide dental hygiene services pursuant to KRS 313.040(7) shall complete a written order prescribing the dental service or procedure to be done to a specific patient by the dental hygienist and shall retain the original order in the patient's dental record.

(4) The minimum requirements for the written order shall include:

(a) Medical history update;

(b) Radiographic records requested;

(c) Dental hygiene procedures requested;

(d) Name of the patient;

(e) Date of last oral examination;

(f) Date of the written order; and

(g) Signature of the dentist.

(5) The oral examination of the patient by the supervising dentist shall have been completed within the seven (7) months preceding treatment by the dental hygienist practicing under general supervision.

(6) The supervising dentist shall evaluate and provide to the board written validation of an employed dental hygienists skills necessary to perform dental hygiene services established in KRS 313.040(7) as part of the General Supervision Registration Application.

(7) The supervising dentist shall provide a written protocol addressing the medically compromised patients who may or may not be treated by the dental hygienist. The dental hygienist shall only treat patients who are in the ASA Patient Physical Status Classification of ASA I or ASA II as listed in Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, 2007 Edition, American Dental Association.

(8) A licensed dental hygienist shall not practice under general supervision if the licensee does not hold a general supervision registration issued by the board.

Section 13. Requirements for Starting Intravenous Access Lines. (1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action under KRS Chapter 313 who desires to start an intravenous (IV) access line while under the direct supervision of a dentist who holds a sedation or anesthesia permit issued by the board shall:

(a) Submit a signed and completed Application for Intravenous Access Line Registration;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Submit documentation proving successful completion of a board-approved course in starting IV access lines.

(2) An individual authorized to practice under this provision shall receive a license from the board indicating registration to start IV access lines.

(3) A licensed dental hygienist shall not start an IV access line if the licensee does not hold a board-issued registration to start IV access lines.

Section 14. Requirements for Performing Laser Debridement. (1) An individual licensed as a dental hygienist in Kentucky and not subject to disciplinary action under KRS Chapter 313 who desires to perform laser debridement while under the direct supervision of a dentist licensed by the board shall:

(a) Submit a signed and completed Application for Laser Debridement Registration;

(b) Pay the fee required by 201 KAR 8:520; and

(c) Submit documentation proving successful completion of a board-approved course in performing laser debridement.

(2) An individual authorized to practice under this provision shall receive a license from the board indicating registration to perform laser debridement.

(3) A licensed dental hygienist shall not perform laser debridement if the licensee does not hold a registration to do so issued by the board.

Section 15. Issuance of Initial Licensure. If an applicant has completed the requirements for licensure the board shall:

(1) Issue a license in sequential numerical order; or

(2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Dental Hygiene Licensure", January 2011;

(b) "Application for Charitable Dental Hygiene Licensure", July 2010;

(c) "Application for Renewal of Dental Hygiene Licensure", January 2011;

(d) "Retirement of License Form", July 2010;

(e) "Application to Reinstate a Dental Hygiene License", July 2010;

(f) "Verification of Licensure or Registration Form", July 2010;

(g) "Duplicate License or Registration Request Form", July 2010;

(h) "Dental Hygiene Local Anesthesia Registration Application", July 2010;

(i) "General Supervision Registration Application", July 2010;

(j) "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students", 2007 Edition;

(k) "Application for Intravenous Access Line Registration", July 2010; and

(l) "Application for Laser Debridement Registration", July 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at http://dentistry.ky.gov.

DR. C. MARK FORT, DMD, President

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: April 21, 2011 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 30, 2011, at 9:00 a.m. at the office of the Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, KY 40222. Individuals interested in being heard at this hearing shall notify this agency in writing no later than 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 emergency 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 emergency administrative regulation. Written comments shall be accepted until June 30, 2011. Send written notification of intent to be heard at the public hearing or written comments on the emergency administrative regulation to the contact person.

CONTACT PERSON: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, phone (502) 429-7280, fax (502) 429-7282, email briank.bishop@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Brian K. Bishop, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for the licensure of dental hygienist as mandated by KRS 313.040 This administrative regulation also establishes the requirements for the administration of local anesthesia by a licensed dental hygienist as required in KRS 313.060

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the requirements and procedures for the licensure of dental hygienist as mandated by KRS 313.040 and establishes the requirements for the administration of local anesthesia by a licensed dental hygienist as required in KRS 313.060.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation is necessary to implement KRS 313.040 and KRS 313.060, which requires the board to promulgate administrative regulations regarding the requirements the licensure of dental hygienist and the requirements for the administration of local anesthesia.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to implement KRS 313.040 and KRS 313.060, which requires the board to promulgate administrative regulations regarding the requirements the licensure of dental hygienist and the requirements for the administration of local anesthesia.

(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 statute: 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 will affect the 2402 dental hygienist currently licensed by the board as well as any new dental hygienist licensed by the board in the future. Additionally, the Kentucky Board of Dentistry will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no new actions for licensees to take in order to comply with this administrative regulation. The Kentucky Board of Dentistry is charged by KRS 313.040 to regulate the practice of dentistry in the Commonwealth.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): the fees established in 201 KAR 8:520 are:

The initial licensure fee for a dental hygiene license applied for in a non-renewal year shall be $125.

The initial licensure fee for a dental hygiene license applied for in a renewal year shall be seventy-five (75) dollars.

The renewal fee for a dental hygiene license appropriately renewed on or before the expiration of the license shall be $110.

The renewal reinstatement fee for a dental hygiene license renewed between January 1 and January 15 of the year following the expiration of the license shall be $130 in addition to the renewal fee.

The renewal reinstatement fee for a dental hygiene license renewed between January 16 and January 31 of the year following the expiration of the license shall be $260 in addition to the renewal fee.

The renewal reinstatement fee for a dental hygiene license renewed on or after February 1 of the year following the expiration of the license shall be $520 in addition to the renewal fee.

The initial dental hygiene anesthesia registration fee shall be fifty (50) dollars.

The initial dental hygiene general supervision registration fee shall be fifty (50) dollars.

The initial dental hygiene intravenous access line registration fee shall be fifty (50) dollars.

The initial dental hygiene laser debridement registration fee shall be fifty (50) dollars.

The fee for reinstatement of a properly retired dental hygiene license shall be $125. The board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 - 2011 an allotment of $705,400 and for FY 2011 - 2012 and allotment of $714,000.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees who are in compliance will have the legal ability to practice dental hygiene in the Commonwealth of Kentucky. Kentucky Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for its licensees to legally practice dentistry in the Commonwealth.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The Board is a self funded agency whose budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 - 2011 an allotment of $705,400 and for FY 2011 - 2012 and allotment of $714,000. The Kentucky Board of Dentistry receives no monies from the General Fund.

(a) Initially: No additional costs are expected.

(b) On a continuing basis: No additional costs are expected.

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

implementation and enforcement of this regulation are fully funded by licensing fees paid by dental hygienist as part of compliance with 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: The fees found in 201 KAR 8:520 make the agency financially solvent.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is applied in as much as the dental hygienist wishes to undertake additional responsibilities allowed under the authority of the dentist for which he works. This administrative regulation establishes additional requirements for individual wishing to practice under the general supervision of the dentist, use lasers for debridement, or establish inter venous access on patients.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 313

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no new net fiscal affect on the Kentucky Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(c) How much will it cost to administer this program for the first year? FY 2010 - 2011 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $705,400

(d) How much will it cost to administer this program for subsequent years? FY 2011 - 2012 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is $714,000

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analyst Licensing Board
(New Administrative Regulation)

201 KAR 43:010. Licensed Behavior Analyst or Licensed Assistant Behavior Analyst: application procedures.

RELATES TO: KRS 319C.080(1) and (2)

STATUTORY AUTHORITY: KRS 319C.060(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a Behavior Analyst or Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for licensure.

Section 1. Application. (1) An application for a license as a Behavior Analyst or Assistant Behavior Analyst may be submitted after the requirements established in KRS 319C.080(1) and (2) are met.

(2) The application required by section (1) of this section shall be made by submitting a completed "Application Form-1" to the board. The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

3. An official transcript for all levels of education required for licensure.

Section 2. The applicant for licensure as a Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030

(2) Have received a masters or doctoral degree from a regionally accredited educational institution; provided, however, the board may grant a license to an individual
otherwise qualified under this administrative regulation who has received a masters or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Has passed the Board Certified Behavior Analyst (BCBA)® examination, and;

(4) Is credentialed and has active status at the time of the application as a behavior analyst by the Behavior Analyst Certification Board, and;

(5) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 3. The applicant for licensure as an Assistant Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030;

(2) Have received a bachelor's, masters, or doctoral degree from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this administrative regulation who has received a bachelor's, masters, or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Has passed the Board Certified Assistant Behavior Analyst (BCaBA)® examination, and;

(4) Is credentialed and has active status at the time of the application as an Assistant Behavior Analyst by the Behavior Analyst Certification Board, and;

(5) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 4. Incorporation by Reference. (1) "Application Form-Behavior Analyst or Assistant Behavior Analyst", January 2011 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Applied Behavior

Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair
APPROVED BY AGENCY: March 21, 2011
FILED WITH LRC: April 29, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2011 at 1 p.m., local time, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) 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 close of business on June 30, 2011. 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: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky, 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for an applicant for licensure as a Behavior Analyst or Assistant Behavior Analyst.

(b) The necessity of this administrative regulation: This administrative is necessary to set the process for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a Behavior Analyst or Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the requirements for and the process involved in obtaining licensure from the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to file the completed application setting forth how the individual meets the qualifications for licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The fees for applying will be established in a separate regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will have their applications reviewed by the board.

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

(a) Initially: The board estimates that no additional costs will be incurred by this administrative regulation.

(b) On a continuing basis: The board estimates that no additional costs will be incurred by this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation amendment does not directly establish or increase fees.

(9) Tiering: Is tiering applied? Yes. The regulation includes separate requirements for the two levels of licensure, Behavior Analyst and Assistant Behavior Analyst.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analysis Licensing Board
(New Administrative Regulation)

201 KAR 43:020. Temporary Licensed Behavior Analyst or Temporary Licensed Assistant Behavior Analyst: application procedures.

RELATES TO: KRS 319C.080 (3)
STATUTORY AUTHORITY: KRS 319C.060(2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for tem-

porary licensure as a Behavior Analyst or temporary licensure as an Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for temporary licensure.

Section 1. Application. (1) An application for a temporary license as a Behavior Analyst or temporary license as an Assistant Behavior Analyst may be submitted after the requirements established in KRS 319C.080(1) and (2) are met.

(2) The application required by section (1) of this section shall be made by submitting a completed "Application Form-Temporary Licensed Behavior Analyst or Temporary Licensed Assistant Behavior Analyst" to the board. The application shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of his or her knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification; and

3. Applicant is aware that the temporary license shall expire two (2) years from the issuance date and may not be renewed.

(b) If applicant has completed the coursework through a BACB-approved program, the application shall include an original, certified post-secondary transcript.

(c) If applicant has completed coursework from a non-BACB-approved program, the application shall include an official post-secondary transcript and course syllabi for all behavior-analytic coursework showing that the applicant has met the coursework requirements for a Board Certified Behavior Analyst® or Board Certified Assistant Behavior Analyst®.

Section 2. The applicant for temporary licensure as a Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030.

(2) Have received a masters or doctoral degree from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this administrative regulation who has received a masters or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 3. The applicant for temporary licensure as an Assistant Behavior Analyst shall:

(1) Submit a check or money order payable to the Kentucky State Treasurer for the application fee as required by 201 KAR 43:030;

(2) Have received a bachelor's, masters, or doctoral degree from a regionally accredited
educational institution; provided, however, the board may grant a license to an individual
otherwise qualified under this administrative regulation who has received a bachelor's, masters, or doctoral degree from an educational institution outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions regionally accredited in the United States; and

(3) Submits proof of completion of a board approved training in reporting abuse, neglect and exploitation which meets the requirements of KRS Chapter 209 or any successor course requirements.

Section 4. Incorporation by Reference. (1) "Application Form-Temporary Behavior Analyst or Temporary Assistant Behavior Analyst", (January 2011 edition), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

APPROVED BY AGENCY: March 21, 2011

FILED WITH LRC: April 29, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2011 at 1 p.m., local time, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) 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 close of business on June 30, 2011. 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: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for application for temporary licensure as a Behavior Analyst or Assistant Behavior Analyst.

(b) The necessity of this administrative regulation: This administrative is necessary to set the process for temporary licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(a) requires the board to promulgate administrative regulations establishing the requirements for an applicant for temporary licensure as a Behavior Analyst or Assistant Behavior Analyst. This administrative regulation establishes the requirements for applicants for temporary licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the requirements and the process involved in obtaining temporary licensure from the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to file the completed application setting forth how the individual meets the qualifications for temporary licensure.

(b) In complying with this administrative regulation or amend-

ment, how much will it cost each of the entities identified in question (3): The fees for applying will be established in a separate regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for temporary licensure will have their applications reviewed by the board.

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

(a) Initially: The board estimates that no additional costs will be incurred by this administrative regulation.

(b) On a continuing basis: The board estimates that no additional costs will be incurred by this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation amendment does not directly establish or increase fees.

(9) Tiering: Is tiering applied? Yes. The regulation includes separate requirements for the two levels of temporary licensure, Behavior Analyst and Assistant Behavior Analyst.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analysis Licensing Board
(New Administrative Regulation)

201 KAR 43:030. Fees.

RELATES TO: KRS 319C.060(2)(f); KRS 319C080(1)-(3)

STATUTORY AUTHORITY: KRS 319C.060(2)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(f) requires the board to promulgate administrative regulations establishing reasonable fees for the licensure and license renewal of behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation establishes those fees.

Section 1. Application and licensure fees for licensed behavior analysts.

(1) An applicant for licensure as a licensed behavior analyst shall pay the following:

(a) A $100 nonrefundable application review fee, and;

(b) A $300 licensure fee for the first two (2) year licensure period.

(2) The licensure renewal fee for each subsequent, two (2) year licensure period shall be $300.

Section 2. Application and Licensure Fees for Licensed Assistant Behavior Analysts.

(1) An applicant for licensure as a licensed assistant behavior analyst shall pay the following:

(a) A $100 nonrefundable application review fee, and;

(b) A $200 licensure fee for the first two (2) year licensure period.

Section 3. Application and Temporary Licensure Fees for Temporarily Licensed Behavior Analysts.

(1) An applicant for a temporary license as a behavior analyst shall pay the following:

(a) A $100 nonrefundable application review fee, and;

(b) A $200 temporary licensure fee for the two (2) year temporary licensure period.

Section 4. Fees for Late Renewal or Reinstatement of a Licensed Behavior Analyst and Licensed Assistant Behavior Analyst.

(1) A licensed behavior analyst or a licensed assistant behavior analyst who files to renew his or her license after its renewal date but within thirty (30) days of that renewal date shall pay a late fee of $50 in addition to the fee set forth in Section 1 or 2 of this administrative regulation.

(2) A licensed behavior analyst or a licensed assistant behavior analyst who files to reinstate his or her license more than thirty (30) days after its renewal date but within one (1) year of that renewal date shall pay a reinstatement fee of $250 in addition to the fee set forth in Section 1 or 2 of this administrative regulation.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

APPROVED BY AGENCY: March 21, 2011

FILED WITH LRC: April 29, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2011 at 1 p.m., local time, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) 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 close of business on June 30, 2011. 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: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administra-

tive regulation establishes the fees for application for licensure as a Behavior Analyst or Assistant Behavior Analyst.

(b) The necessity of this administrative regulation: This administrative is necessary to set the fees for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(f) requires the board to promulgate administrative regulations establishing reasonable fees for the licensure and license renewal of behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation establishes those fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the fees required for licensure from the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires applicants to pay the fee for licensure by the board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The fees are set forth in the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will have their applications reviewed by the board.

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

(a) Initially: The board is newly created in the 2010 session of the General Assembly. Although it cannot identify costs with exactitude, the board will be expending funds for overhead, staff, and equipment.

(b) On a continuing basis: The board is newly created in the 2010 session of the General Assembly. Although it cannot identify costs with exactitude, the board will be expending funds for overhead, staff, and equipment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does directly establish fees.

(9) Tiering: Is tiering applied? Yes. The regulation includes separate requirements for the two levels of licensure, Behavior Analyst and Assistant Behavior Analyst.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Kentucky Applied Behavior Analysis Licensing Board
(New Administrative Regulation)

201 KAR 43:040. Code of ethical standards and standards of practice.

RELATES TO: KRS 319C.060(1), 319C.060(2)(c)

STATUTORY AUTHORITY: KRS 319C.060(2)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319C.060(2)(c) require the board to adopt a code of ethical standards and standards of practice for all licensed behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide the code of ethical standards and standards of practice.

Section 1. Definitions. (1) "Behavior analyst" means a person credentialed under KRS Chapter 319C.

(2) "Client" means a person who meets the requirements established in Section 2 of this administrative regulation.

(3) "Confidential information" means information revealed by a client or clients or otherwise obtained by a behavior analyst in a professional relationship.

(4) "Court order" means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if the authority has been lawfully delegated to the magistrate or administrator.

(5) "Professional relationship" means a mutually agreed upon relationship between a behavior analyst and a client for the purpose of the client obtaining the behavior analyst's professional expertise.

(6) "Professional service" means all actions of the behavior analyst in the context of a professional relationship with a client.

(7) "Supervisee" means a person who functions under the extended authority of the behavior analyst to provide behavioral services.

Section 2. Client Requirements. (1) Identification of a client. A client shall be a person who receives:

(a) An evaluation, assessment, or professional services;

(b) Other professional services for the purpose of practicing applied behavior analysis or applied behavior analysis interventions; or

(c) Consultation regarding applied behavior analysis or applied behavior analysis interventions in the context of a professional relationship.

(2) A corporate entity or other organization shall be considered the client if the professional contract is to provide a professional service of benefit to the corporate entity or organization.

(3) A legal guardian of a minor or legally incompetent adult shall be considered the client for a decision-making purposes.

(4) A person identified as a client pursuant to subsections (1)-(3) of this section shall be deemed to continue to be a client for a period of two (2) years following the last date of service rendered to the person.

Section 3. Competence. (1) Limits on practice. The behavior analyst shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience.

(2) Maintaining competency. The behavior analyst shall maintain current competency in the areas in which he or she practices, through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge.

(3) Adding new services and techniques. The behavior analyst, if developing competency in a service or technique that is new either to the behavior analyst or new to the profession, shall engage in ongoing consultation with other behavior analyst or relevant professionals and shall obtain appropriate education and training. The behavior analyst shall inform a client of the innovative nature and the known risks associated with the service, so that the client can exercise freedom of choice concerning the service.

(4) Referral. The behavior analyst shall make or recommend referral to other professional, technical, or administrative resources if a referral is clearly in the best interests of the client.

(5) Sufficient professional information. A behavior analyst rendering a formal professional opinion in a report, letter, or testimony about a person shall not do so without direct and substantial professional contact with or a formal assessment of that person.

(6) Maintenance and retention of records.

(a) The behavior analyst rendering professional services to an individual client, or services billed to a third-party payor, shall maintain professional records that include:

1. The presenting problem, purpose or diagnosis from another mental health professional;

2. The fee arrangement;

3. The date and substance of each professional contact or service;

4. Test results or other evaluative results obtained and the basic test data from which the results were derived;

5. Notation and results of a formal consult with another provider; and

6. A copy of all test or other evaluative reports prepared as part of the professional relationship.

(b) The behavior analyst shall ensure that all records are maintained for a period of not less than six (6) years after the last date that services were rendered.

(c) The behavior analyst shall store and dispose of written, electronic and other records in a manner which shall ensure their confidentiality.

(d) For each person supervised pursuant to KRS Chapter 319C, the behavior analyst shall maintain for a period of not less than six (6) years after the last date of supervision a record of each supervisory session that shall include the type, place, date, and general content of the session.

(7) Continuity of care. The behavior analyst shall make arrangements for another appropriate professional or professionals to provide for an emergency need of a client, as appropriate, during a period of his or her foreseeable absence from professional availability.

Section 4. Impaired Objectivity and Dual Relationships. (1) Impaired behavior analyst.

(a) The behavior analyst shall not undertake or continue a professional relationship with a client if the objectivity or competency of the behavior analyst is impaired due to a mental, emotional, physiologic, pharmacologic, or substance abuse condition.

(b) If an impairment develops after a professional relationship has been initiated, the behavior analyst shall:

1. Terminate the relationship in an appropriate manner;

2. Notify the client in writing of the termination; and

3. Assist the client in obtaining services from another professional.

(2) Prohibited dual relationships.

(a) The behavior analyst shall not undertake or continue a professional relationship with a client, or the client's parent or legal guardian, if the objectivity or competency of the behavior analyst is impaired because of the behavior analyst's present or previous familial, social, sexual, emotional, financial, supervisory, administrative, or legal relationship with the client or a relevant person associated with or related to the client.

(b) The behavior analyst, in interacting with a client, the client's parent or legal guardian, shall not:

1. Engage in verbal or physical behavior toward the client, or the client's parent or legal guardian, which is sexually seductive, demeaning, or harassing;

2. Engage in sexual intercourse or other physical intimacy with the client or the client's parent or legal guardian; or

3. Enter into a potentially exploitative relationship with the client, or the client's parent or legal guardian.

(c) The prohibitions established in paragraph (b) of this subsection shall extend indefinitely if the client is clearly vulnerable, by reason of emotional or cognitive disorder, to exploitative influence by the behavior analyst.

Section 5. Client Welfare. (1) Providing explanation of procedures. The behavior analyst shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client. The behavior analyst shall keep the client fully informed as to the purpose and nature of an evaluation, treatment, or other procedure, and of the client's right to freedom of choice regarding services provided.

(2) Termination of services.

(a) If professional services are terminated, the behavior analyst shall offer to assist the client in obtaining services from another professional.

(b) The behavior analyst shall:

1. Terminate a professional relationship if the client is not benefiting from the services; and

2. Prepare the client appropriately for the termination.

(3) Stereotyping. The behavior analyst shall not impose on the client a stereotype of behavior, values, or roles related to age, gender, religion, race, disability, nationality, sexual preference, or diagnosis which would interfere with the objective provision of professional services to the client.

(4) Solicitation of business by clients. The behavior analyst providing services to an individual client shall not induce that client, or the client's parent or legal guardian, to solicit business on behalf of the behavior analyst.

(5) Referrals on request. The behavior analyst providing services to a client shall make an appropriate referral of the client to another professional if requested to do so by the client.

Section 6. Welfare of Supervisees and Research Subjects. (1) Welfare of supervisees. The behavior analyst shall not exploit a supervisee.

(2) Welfare of research subjects. The behavior analyst shall respect the dignity and protect the welfare of his or her research subjects, and shall comply with all relevant statutes and administrative regulations concerning treatment of research subjects.

Section 7. Protecting the Confidentiality of Clients. (1) General. The behavior analyst shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional services. Except as provided in this section, the behavior analyst shall obtain the informed written consent of the client prior to disclosing confidential information.

(2) Disclosure without informed written consent. The behavior analyst shall disclose confidential information without the informed consent of the client if the behavior analyst has a duty to warn an intended victim of the client's threat of violence pursuant to KRS 202A.400 or 645.270.

(3) Disclosure if the client is a corporation or other organization. If the client is a corporation or other organization, the requirements

for confidentiality established in this section shall:

(a) Apply to information that pertains to:

1. The corporation or organization; or

2. An individual, including personal information, if the information is obtained in the proper course of the contract; and

(b) Not apply to personal information concerning an individual if the individual had a reasonable expectation that the information was:

1. Obtained in a separate professional relationship between the behavior analyst and the individual; and

2. Subject to the confidentiality requirements established in this section.

(4) Services involving more than one (1) interested party. If more than one (1) party has an appropriate interest in the professional services rendered by the behavior analyst to a client or clients, the behavior analyst shall clarify to all parties prior to rendering the services the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.

(5) Multiple clients. If service is rendered to more than one (1) client during a joint session, the behavior analyst shall at the beginning of the professional relationship clarify to all parties the manner in which confidentiality shall be handled.

(6) Legally dependent clients. At the beginning of a professional relationship the behavior analyst shall inform a client who is below the age of majority or who has a legal guardian, of the limit the law imposes on the right of confidentiality with respect to his or her communications with the behavior analyst.

(7) Limited access to client records. The behavior analyst shall limit access to client records to preserve their confidentiality and shall ensure that all persons working under the behavior analyst's authority comply with the requirements for confidentiality of client material.

(8) Release of confidential information. The behavior analyst shall release confidential information upon court order or to conform with state law, including KRS 422.317, or federal law or regulation.

(9) Reporting of abuse of children and vulnerable adults. The behavior analyst shall be familiar with the relevant law concerning the reporting of abuse of children and vulnerable adults, and shall comply with those laws, including KRS 620.030.

(10) Discussion of client information among professionals. If rendering professional services as part of a team or if interacting with other appropriate professionals concerning the welfare of the client, the behavior analyst may share confidential information about the client if the behavior analyst takes reasonable steps to ensure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

(11) Disguising confidential information. If case reports or other confidential information is used as the basis of teaching, research, or other published reports, the behavior analyst shall exercise reasonable care to ensure that the reported material is appropriately disguised to prevent client identification.

(12) Observation and electronic recording. The behavior analyst shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded only with the informed written consent of the client.

(13) Confidentiality after termination of professional relationship. The behavior analyst shall continue to treat as confidential information regarding a client after the professional relationship between the behavior analyst and the client has ceased.

Section 8. Representation of Services. (1) Display of credentials. The behavior analyst shall display his or her current credential to practice on the premises of his or her professional office.

(2) Misrepresentation of qualifications. The behavior analyst shall not misrepresent directly or by implication his or her professional qualifications such as education, experience, or areas of competence.

(3) Misrepresentation of affiliations. The behavior analyst shall not misrepresent directly or by implication his or her affiliations, or the purposes or characteristics of institutions and organizations with which the behavior analyst is associated.

(4) False or misleading information. The behavior analyst shall not include false or misleading information in a public statement concerning professional services offered.

(5) Misrepresentation of services or products. The behavior analyst shall not associate with or permit his or her name to be used in connection with a service or product in a way which misrepresents:

(a) The service or product;

(b) The degree of his or her responsibility for the service or product; or

(c) The nature of his or her association with the service or product.

(6) Correction of misrepresentation by others. The behavior analyst shall correct others who misrepresent the behavior analyst's professional qualifications or affiliations.

Section 9. Disclosure of Cost of Services. The behavior analyst shall not mislead or withhold from a client, prospective client, or third party payor, information about the cost of his or her professional services.

Section 10. Assessment Procedures. (1) Confidential information. The behavior analyst shall treat as confidential assessment results or interpretations regarding an individual.

(2) Protection of integrity of assessment procedures. The behavior analyst shall not disseminate a test in a way that may invalidate it.

(3) Information for professional users. The behavior analyst offering an assessment procedure or automated interpretation service to another professional shall accompany this offering by a manual or other printed material which describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The behavior analyst shall state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The behavior analyst shall ensure that advertisements for the assessment procedure or interpretive service are factual.

Section 11. Aiding Illegal Practice. (1) Delegating professional responsibility. The behavior analyst shall not delegate professional responsibilities to a person not appropriately credentialed or otherwise appropriately qualified to provide professional services.

(2) Providing supervision. The behavior analyst shall exercise appropriate supervision over a supervisee.

MARY M. "SHELLI" DESKINS, Ph.D., Vice-Chair

APPROVED BY AGENCY: March 21, 2011

FILED WITH LRC: April 29, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2011 at 1 p.m., local time, at the Kentucky Applied Behavior Analysis Licensing Board, 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) 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 close of business on June 30, 2011. 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: Lindsey Lane, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky, 40602, phone (502) 564-3296, fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lindsey Lane, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the code of ethical standards and standards of practice for licensed Behavior Analysts or Assistant Behavior Analysts.

(b) The necessity of this administrative regulation: This administrative is necessary to set the code of ethical standards and standards of practice for licensed Behavior Analysts or Assistant Behavior Analysts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319C.060(2)(c) require the Board to adopt a code of ethical standards and standards of practice for all licensed behavior analysts, assistant behavior analysts, and temporary licensees. This administrative regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide the code of ethical standards and standards of practice.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs licensees of the requirements for ethical conduct and the standards of practice required by the board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 50 persons are expected to seek licensure from the board.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation requires licensees to conform their practice to the standards set forth in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs to the entities are anticipated from the requirements established by this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensees will practice in a manner that conforms to current standards and protects the public.

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

(a) Initially: The board estimates that no additional costs will be incurred by this administrative regulation.

(b) On a continuing basis: The board estimates that no additional costs will be incurred by this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operation is funded by fees paid by the licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation amendment does not directly establish or increase fees.

(9) Tiering: Is tiering applied? No. All licensees will be required to conform their practice the standards set forth in this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Applied Behavior Analysis Licensing Board.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319C.060(2)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)

501 KAR 3:160. Training.

RELATES TO: KRS 441.045, 441.055, 441.115

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners and KRS 441.115 sets requirements to obtain training allowances. This administrative regulation establishes training requirements for jail personnel.

Section 1. Procedure. (1) Training of Jailers, jail personnel and other employees shall be the responsibility of the governing authority. The department shall provide training assistance and archiving of electronic training records at no cost to the local body of government.

(2) The department shall schedule a Jail Training Curriculum Advisory Committee meeting annually to advise concerning needs and topics for jail training curriculum. The committee shall be comprised of the Deputy Commissioner of Corrections for Local Facilities, the Director of Local Facilities, the Director of the Division of Corrections Training (DCT). The committee shall also include those members of the Kentucky Jailers Association (KJA) that are appointed by the KJA Executive Board.

Section 2. Information System. (1) A jail shall maintain cumulative records on the types and hours of training completed annually by jail personnel. The records shall be maintained in a manner so that all of the records for a specific jail employee may be readily retrieved and shall be entered into the department training records management system.

(a) If the training is conducted by the department, the department shall enter and

maintain records of the training for the jail personnel in the department's training records management system.

(b) If training is conducted by someone other than the Department, jail personnel who have been trained to enter information into the Department training records management system shall enter the training information. Training information shall be entered within ten (10) days of the training being completed. A jail employee shall have access to his individual record.

(2) Training records within the Division of Corrections Training

(DCT) Learning Management System shall serve as proof of attendance and successful completion of department training to the governing authority for its employees.

Section 3. New Jailer Training. (1) Pursuant to KRS 441.115, training shall be offered to newly elected jailers. The training may be coordinated and conducted with the Kentucky Jailers Association (KJA). A jail administrator appointed to complete the term of office of an elected jailer who is unable to complete his term or appointed after new jailer training has occurred shall be offered training prior to assuming his duties.

(2) In order to qualify for the training expense allowance pursuant to KRS 441.115, for his first year, the jailer shall successfully complete a minimum of forty (40) hours training provided or approved by the department.

Section 4. Jail Personnel Basic Training. (1) The training shall include:

(a) A minimum of four (4) hours of mental health training within the first year of service. The initial four (4) hours of mental health training may be conducted by the service provider of mental health triage or mental health services to the jail.

(b) Human immunodeficiency virus infection training and acquired immunodeficiency syndrome training approved by the Cabinet for Health and Family Services;

(2) Jail personnel who are assigned to duties within a direct supervision area or facility shall receive forty (40) hours of preservice training related to direct supervision.

(3) The training shall be approved by the department or the jailer.

Section 5. Annual Training. (1) In order to qualify for the training expense allowance pursuant to KRS 441.115 after his first year, the jailer shall complete a minimum of forty (40) hours annual in-service training provided or approved by the department.

(2) Jail personnel shall receive a minimum of sixteen (16) hours of annual in-service training. The training shall be provided by the department or other instruction approved by the jailer.

(3) A minimum of one (1) hour of mental health training shall be included in annual training.

Section 6. Medication Administration, First Aid and CPR. (1) All jail personnel shall have current training in standard first aid equivalent to that provided by the American Red Cross, American Heart Association, or an equivalent nationally recognized organization. New jail personnel shall receive training within their first year of employment.

(2) All jail personnel shall be certified to perform CPR (Cardiopulmonary

Resuscitation), equivalent to that provided by the American Red Cross, American Heart Association, or an equivalent nationally recognized organization. New jail personnel shall receive certification within their first year of employment.

(3) Jail personnel or health services staff who administer medications to prisoners shall be trained in the medication administration procedures established in the jail's policy and procedures manual.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686**.**

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes training requirements for jail personnel in full service jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes minimum standards for training in full service jails.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation provides minimum standards to jail employees concerning their training requirements.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation sets out the training required for all jail personnel.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The training provisions were consolidated into a single regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Jail personnel will receive proper training to ensure the safety and operation of the jails.

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

(a) Initially: no additional cost

(b) On a continuing basis: no additional cost

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all full-service jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Dept. of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)

501 KAR 3:170. Classifications.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 441.045, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes jail categories defined by the maximum bed capacity of full-service jails.

Section 1. Jail Categories

(1) Category I – Jails with one (1) to one hundred (100) beds shall be classified as a Category I jail.

(2) Category II – Jails with one hundred one (101) beds to two hundred fifty (250) beds shall be classified as a Category II jail.

(3)Category III – Jails with two hundred fifty-one (251) beds to five hundred (500) beds shall be classified as a Category III jail.

(4) Category IV – Jails with five hundred one (501) to nine hundred ninety-nine (999) beds shall be classified as a Category IV jail.

(5) Category V – Jails with one thousand (1,000) beds or more shall be classified as a Category V jail.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes jail categories defined by the maximum bed capacity of jails.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055 which requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes jail categories defined by the maximum bed capacity of the jails.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation provides classifications based on maximum bed capacity.

(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: List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 77 county and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections employees, including 13 Local Facilities staff, and approximately 18,900 inmates that are in the jails

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment,

including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No benefits currently.

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

(a) Initially: none

(b) On a continuing basis: none

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment:
No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The classifications apply equally to all jails.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Dept. of Corrections and county jails that house state inmates.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)

501 KAR 7:150. Training.

RELATES TO: KRS 441.045, 441.055, 441.115

STATUTORY AUTHORITY: KRS 196.035, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners and KRS 441.115 sets requirements to obtain training allowances. This administrative regulation establishes minimum training requirements for jail personnel.

Section 1. Information System. (1) A Jail shall maintain cumulative records on the types and hours of training completed annually by jail personnel. The records shall be maintained in a manner so that all of the records for a specific jail employee may be readily retrieved and shall be entered into the department training records management system.

(a) If the training is conducted by the department, the department shall enter and

maintain records of the training for the jail personnel in the department's training records management system.

(b) If the training is conducted by someone other than the department, jail personnel who have been trained to enter information into the department training records management system shall enter the training information. Training information shall be entered within ten (10) days of the training being completed. A jail employee shall have access to his individual record.

Section 2. Curriculum. (1) Jail personnel shall receive a minimum of sixteen (16) hours annual in-service training. The training may be provided by the department or shall be training approved by the jailer and governing authority.

(2) The training shall include:

(a) A minimum of four (4) hours of mental health training within the first year of service, and one (1) hour of additional mental health training each year thereafter. The initial four (4) hours of mental health training should be conducted by the service provider of mental health triage and or mental health services to the jail, if possible.

(b) Human immunodeficiency virus infection training and acquired immunodeficiency syndrome training approved by the Cabinet for Health and Family Services;

(c) All Jail personnel or health services staff who administer medications to prisoners shall be trained in the proper procedures as outlined in the Jail's Policy and Procedures manual; and

(d) Jail personnel who are assigned to duties within a direct supervision area or facility shall receive forty (40) hours of preservice training related to direct supervision. The training shall be approved by the department.

Section 3. First Aid and CPR. (1) Jail personnel shall have current training in standard first aid equivalent to that provided by the American Red Cross, American Heart Association, or an equivalent nationally recognized organization. New jail personnel shall receive training within their first year of employment.

(2) Jail personnel shall be certified to perform CPR (Cardiopulmonary Resuscitation), equivalent to that provided by the American Red Cross, American Heart Association, or an equivalent nationally recognized organization. New jail personnel shall receive certification within their first year of employment.

This is to certify that the Jail Standards Review Advisory Commission established pursuant to KRS 441.055(1)(b) has reviewed this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

LADONNA H. THOMPSON, Commissioner
RODNEY BALLARD, Designee of the Chairman

APPROVED BY AGENCY: April 11, 2011

FILED WITH LRC: May 6, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 21, 2011 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five working days

prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing five working days prior to the hearing or send written comments on the proposed administrative regulation by the close of business June 30, 2011 to:

CONTACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686**.**

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker (502) 564-3279

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes training requirements for jail personnel.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 441.055.

(c) How this administrative regulation conforms to the content of the authorizing statues: It establishes minimum training standards in restricted custody centers as required by KRS 441.055.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It establishes minimum training standards in restricted custody centers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 66 restricted custody centers and their staff, approximately 50 Department of Corrections employees, including 16 Local Facilities staff, and approximately 4,878 Class C and D inmates.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The centers will have to review the training requirements to make sure that they are complying with them. Many of the requirements we moved from other regulations to combine them into one regulation. Language was clarified to make the requirements easier to understand.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Jail personnel will receive the minimum training standards.

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

(a) Initially: No additional cost.

(b) On a continuing basis: No additional cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? Budgeted funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. The standards apply equally to all restricted custody centers.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Corrections and restricted custody centers.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 441.055.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? For fiscal year 2011, the department will pay the local jails approximately $88 million for the housing, transportation, and medical care of state inmates. The payment for restricted custody center inmates is a portion of the funds paid. Plus, the department will have approximately $1,089,133 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years? Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Others:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(New Administrative Regulation)

703 KAR 5:200. Next-Generation Learners.

RELATES TO: KRS 158.6451

STATUTORY AUTHORITY: KRS 158.6453; KRS 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools and districts, complies with the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor and ensures accountability.

Section 1. Kentucky's Accountability System. (1) Kentucky's accountability system to classify schools and districts shall consist of four (4) components:

(a) Next-Generation Learners;

(b) Next-Generation Instructional Programs and Support;

(c) Next-Generation Professionals; and

(d) Next-Generation Schools/Districts.

Section 2. Next-Generation Learners. (1) The Next-Generation

Learners component of Kentucky's accountability system shall report data for schools and districts in the following categories:

(a) Achievement;

(b) Gap;

(c) Individual Student Growth;

(d) Readiness for College or Career; and

(e) Graduation Rate.

(2) Data from individual student performance on state assessments administered as required in KRS 158.6451 and KRS 158.6453 shall be included in the Next-Generation Learners component.

(3) Data in reporting categories shall be attributed to grade level spans for schools and districts as follows:

(a) Elementary schools shall receive a total number of points from Achievement, Gap, and Individual Student Growth;

(b) Middle schools shall receive a total number of points from Achievement, Gap, Individual Student Growth, and Readiness for College;

(c) High schools shall receive a total number of points from Achievement, Gap, Individual Student Growth, Readiness for College or Career, and Graduation Rate.

Section 3. Calculations for Reporting Categories. (1) Achievement shall be reported in Next- Generation Learners as follows:

(a) In elementary and middle schools, for each content area of Reading, Mathematics, Science, Social Studies, and Writing one (1) point for each percent of students scoring proficient or distinguished shall be awarded. One-half (.5) point shall be awarded for each percent of students scoring apprentice. Points shall not be awarded for novice students.

(b) A bonus for distinguished performance shall be calculated. The bonus formula shall consider both the percent of students scoring at distinguished and at novice so that a bonus for distinguished student performance shall not overcompensate for novice student performance. Each percent of students scoring distinguished receives an additional one-half (.5) point and each percent of students scoring novice receives a negative one-half (-.5) point. The value generated for novice shall be combined with the value generated for distinguished. For schools and districts with a higher distinguished value, the difference between the two (2) values shall be added to the achievement calculation as a bonus for distinguished. For schools and districts with a higher novice value, points shall not be added to the achievement calculation. The distinguished bonus shall not allow the content area value for a school or district to exceed 100 percent.

(c) In high schools, each state-required End of Course test shall earn one (1) point for each percent of students scoring at or above the passing benchmark set by the technical specifications of each test. One-half point (.5) is awarded for each percent of students scoring within a range below the benchmark. Points shall not be awarded for students falling below the minimal range.

(d) End of course test results may be used for a percentage of a student's final grade in the course. If the district or school council's policies do not include end of course grades in the grading policy or if the end of course grade percentage is less than twenty (20) percent, the district shall submit an annual report to the Commissioner that provides justification for not using end of course exams for at least twenty (20) percent of a student's final grade in the course. The report shall be submitted to the Commissioner on or before December 31.

(2) Gap shall be reported in Next-Generation Learners as follows:

(a) A single gap group called the Non-duplicated Gap Group shall be created. This group shall consist of an aggregate, non-duplicated count of students in traditionally lower performing groups. The Non-duplicated Gap Group shall include students in the following demographic categories:

(1) African American;

(2) Hispanic;

(3) American Indian/Native American;

(4) Limited English Proficiency;

(5) Students in Poverty based on qualification for Free/Reduced Lunch; and

(6) Students with disabilities that have an Individualized Education Plan (IEP).

(b) For each tested content area, students scoring proficient or higher in the Non-duplicated Gap Group shall be summed. The sum shall yield a single gap number of students proficient or higher with no student counting more than one (1) time and all students in the included groups shall be counted once.

(c) The Non-duplicated Gap Group shall have a minimum of ten (10) students per content area in the school or district in order to report Gap data.

(d) A maximum total of 500 points shall be awarded for gap. The points shall be distributed equally among the content areas tested.

(3) Individual Student Growth shall be reported in Next-Generation Learners as follows:

(a) Individual Student Growth shall be computed based on a Student Growth Percentile model.

(b) At elementary and middle schools, calculations shall include scores from students with data from reading assessments across two years and mathematics assessments across two (2) years.

(c) At high school, calculations shall include scores from students with data from College Readiness reading and mathematics assessments across two years.

(d) One (1) point shall be awarded for each student that shows typical or high growth in reading and one (1) point shall be awarded for each student that shows typical or high growth in mathematics. Typical yearly growth shall be at least the 40th student growth percentile or higher. Points shall not be awarded for students showing lower than typical growth.

(e) For elementary, middle and high schools, total points shall be 100 for each content area of reading and mathematics for a total of 200.

(4) Readiness for College or Career shall be reported in Next-Generation Learners as follows:

(a) A readiness percentage for each high school shall be calculated by dividing the number of high school graduates that have successfully met one indicator of readiness by the total number of graduates. An individual student shall only be attributed to the calculation one time.

(b) The indicators of readiness shall include students meeting:

(1) The Kentucky Council on Postsecondary Education's Systemwide Benchmarks on the ACT in Reading, English and Mathematics; or

(2) The Kentucky Council on Postsecondary Education's College Placement Test Benchmarks; or

(3) The Career Measures as defined by the Kentucky Board of Education.

(c) For middle schools, a college readiness percentage shall be calculated by determining the percentage of students who meet the ACT EXPLORE Benchmarks for Reading, English and Mathematics.

(d) For middle schools, the percent of students in each tested area of Reading, English and Mathematics meeting the benchmark score shall be averaged. This value shall be reported as the middle school college readiness percentage.

(5) Graduation Rate shall be reported in Next-Generation Learners as follows:

(a) Graduation rate shall be computed using the Averaged Freshman Graduation Rate for the years of 2011-2012 and 2012-2013. The Cohort Graduation Rate shall be computed beginning with the 2013-2014 year.

(b) The Graduation Rate for each school and district shall be reported publicly by the department in the Next-Generation Learners component. Graduation Rate data shall be lagged one year for reporting.

(6) The total points for Next-Generation Learners shall be awarded as follows:

(a) The total number of points earned in each category of Achievement, Gap, Individual Student Growth, Readiness for College or Career, and Graduation Rate shall be weighted in the following manner:

Grade Range	Achievement	Gap	Growth	Readiness for College or Career	Graduation Rate	Total
Elementary	30	30	40	n/a	n/a	100
Middle	28	28	28	16	n/a	100
High	20	20	20	20	20	100

(b) The total number of points in Next-Generation Learners shall classify schools and districts into one of four classifications:

(1) Distinguished;

(2) Proficient;

(3) Needs Improvement; and

(4) Persistently Low Achieving - the lowest performing schools as defined by KRS 160.346.

Within each of the four classifications, public reports by the department shall indicate the direction in which school and district performance is moving compared to the prior year report.

(c) The placement of schools and districts into one of four classifications and the establishment of goals shall use a standard-setting process utilizing results from the first operational administration of new assessments in 2011-2012. The process shall be advised by the National Technical Advisory Panel on Assessment and Accountability, School Curriculum, Assessment and Accountability Council, and the Office of Education Accountability. The process shall use accepted technical procedures and involve Kentucky school and district administrators and teachers. The Kentucky Board of Education shall review the process and approve the final cut scores and goals that determine placement in one (1) of the four (4) classifications.

(d) If data cannot be calculated for any category of Next-Generation Learners, the weights shall be redistributed using an equal proportion to categories that shall be reported for the school or district.

(7) Students enrolled for a full academic year, which shall be 100 instructional days, shall be included in the calculations for Achievement, Gap, Individual Student Growth, and Readiness for College or Career for a school and district. Graduation Rate calculations shall include both students enrolled and students earning diplomas.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

TERRY HOLLIDAY, Ph.D., Commissioner of Education
DAVID KAREM, Chairperson

APPROVED BY AGENCY: May 12, 2011

FILED WITH LRC: May 12, 2011 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 29, 2011 at 10 a.m. in the State Board Room, 1st Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until, June 30, 2011. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321 or email at kevin.brown@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the first component, Next-Generation Learners, of the Commonwealth's new accountability system to classify schools and districts.

(b) The necessity of this administrative regulation: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools and districts, complies with the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor and ensures accountability.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary for the statewide accountability component, Next-Generation Learners. The regulation implements the requirements of KRS 158.6453, KRS 158.6455 and the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specifics for the categories of Next-Generation Learners and calculations to report these categories.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not an amendment.

(b) The necessity of the amendment to this administrative regulation: Not an amendment.

(c) How the amendment conforms to the content of the authorizing statute: Not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: Not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky and supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The regulation will impact schools and districts by providing the categories and reporting calculations for the Next-Generation Learners component of the accountability system used to classify school and district performance.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: If a district or school council's policies do not include end of course grades in the grading policy or if the end of course grade percentage is less than twenty percent (20%), the district shall submit an annual report to the Commissioner showing justification for not using end of course exams for at least twenty percent (20%) of a student's final grade in the course. The report shall be submitted to the Commissioner on or before December 31.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new cost to school districts.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky schools and districts will have defined categories and reporting calculations for the Next-Generation Learners component of the accountability system used to classify school and district performance.

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

(a) Initially: The proposed amendment will require development of new explanatory materials and data programs for the Next-Generation Learners in the normal course of work for staff. No additional costs are expected.

(b) On a continuing basis: The proposed regulation does not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KDE operating 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: Current funding supports implementation and data reporting for school and district accountability.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School districts.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453, 158.6455 and the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no additional revenue generated by this administrative regulation. No additional costs to school districts are expected since districts are currently complying with the interim assessment and accountability system.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? The proposed regulation will require no additional cost beyond costs that are currently being expended for the interim assessment and accountability system.

(d) How much will it cost to administer this program for subsequent years? The proposed regulation will require no additional cost beyond costs that are currently being expended for the interim assessment and accountability system.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Housing, Buildings And Construction
Division of Fire Prevention
(New Administrative Regulation)

815 KAR 10:070. Consumer fireworks retailer registration and fees.

RELATES TO: HB 333 Section 1, 227.700, 227.702, 227.704, 227.708, 227.710, 227.750, 227.782.

STATUTORY AUTHORITY: KRS 227.715.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.715 requires the department to establish registration requirements and fees for any person, firm, co-partnership, non-profit, or business intended to sell consumer fireworks in the Commonwealth. This administrative regulation establishes the registration forms, submission process and fees for consumer firework retailers.

Section 1. Filing of Annual Registration by Consumer Fireworks Retailers. (1) No retailer shall offer for sale, sell at retail, or keep with intent to sell consumer fireworks without annually registering with the Kentucky State Fire Marshal.

(2) All retailers of consumer fireworks required by KRS 227.715 to annually register with the State Fire Marshal shall submit to the Division of Fire Prevention:

(a) A completed Fireworks Registration Application (Form FM 32-03); and

(b) A nonrefundable annual fee as established in Section 2 of this administrative regulation; and

(c) Evidence that a current sales and use tax permit has been obtained from the Department of Revenue.

(3) Registration shall not be complete until a Fireworks Registration Application, payment of appropriate fireworks retailer fee, and evidence of current sales and use tax permit are received and processed by the Division of Fire Prevention, State Fire Marshal.

Section 2. Fee Schedule for Registration of Consumer Fireworks Retailers. (1) The annual consumer fireworks retailer application and renewal fees for each retail site shall be:

(a) Twenty (25) dollars for registration of retailers intending to sell consumer fireworks described in KRS 227.702(1);

(b) $250 for registration of seasonal retailers intending to sell consumer fireworks described in KRS 227.702(2) and (3) between June 10th and July 7th, or December 26th and January 4th; and

(c) $500 for registration of permanent retailers whose primary source of business is the sale of consumer fireworks as defined in KRS 227.702(2) and (3).

(2) If registration is received less than fifteen (15) days prior to offering fireworks for sale at the site for which registration is submitted, an additional $100 shall be added to the initial fee.

(3) Application, renewal and late registration fees are nonrefundable.

Section 3. Payment of Fees. A fee submitted to the Division of Fire Prevention, State Fire Marshal shall be made payable to the Kentucky State Treasurer.

(1) If a fee is returned to the Division of Fire Prevention for nonpayment or insufficient funds, the payor shall pay thirty-five (35) dollars, unless proof of financial institution error is provided.

(2) If a submitted check is returned to the division for insufficient funds, the payor shall not, for a period of at least six (6) months, make a payment to the Division of Fire Prevention by personal check.

Section 4. Incorporation by Reference. (1) Form FM 32-03, "Fireworks Registration Application", May 2011, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Fire Prevention, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, Monday through Friday, 8 a.m. to 4:30 p.m.

JERRY T. LUNSFORD, Commissioner
ROBERT D VANCE, Secretary

APPROVED BY AGENCY: May 6, 2011

FILED WITH LRC: May 10, 2011 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2011, at 10 a.m., EDT, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405. Individuals interested in being heard at this hearing shall notify this agency in writing by June 15, 2011 (Five working days prior to the hearing) of their intent to attend. The 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 June 30, 2011. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above

date to the contact person:

CONTACT PERSON: Dawn M. Bellis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, phone (502 573-0365, ext 144, fax (502) 573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dawn M. Bellis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and fees for registration of consumer firework retailers/locations within the Commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to update the current fees amended by statute and establish additional registration fees in compliance with HB 333 (2011 Regular Session of the General Assembly).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227.715 requires the department to establish fees and process for the registration of consumer firework retailers and locations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation amendment establishes the fees for registration of retailers of consumer fireworks as allowed by law within the Commonwealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable as this is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable as this is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227.715 requires the department to establish fees for the registration of consumer firework retailers and locations.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation sets forth the registration application process, forms and fees for consumer fireworks retailers within the Commonwealth.

(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 the Department of Housing, Buildings and Construction, the Division of Fire Prevention, owners/operators of consumer firework retail locations and retailers who sell fireworks incidental to their primary retail business.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Consumer firework retailers (seasonal and permanent), as well as retailers who offer consumer fireworks, must register locations with the Division of Fire Prevention by submitting a form and payment of the appropriate fee established.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs associated with this amendment will depend upon the actual number of consumer firework retailers and locations. For this reason, costs cannot be accurately determined or estimated at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Registrants will be in compliance with statutory requirements enacted with passage of HB 333 (2011 Regular Session of the General Assembly).

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

(a) Initially: Additional costs anticipated to implement this regulation will reflect any new costs of administering the newly expanded consumer fireworks retailer registration program.

(b) On a continuing basis: Costs for subsequent years are anticipated to remain similar to those in the initial year of implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The fire prevention and public safety fund for the Division of Fire Prevention established in KRS 227.782.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The fees established within this administrative regulation are intended to offset expenditures of administering the registration of consumer fireworks retailers within the Commonwealth. This is a restricted fund program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increases any fees: This administrative regulation amends by decreasing previously established fees for registration of consumer firework sales locations and establishes fees for seasonal and permanent retailers selling consumer fireworks as allowed by law.

(9) TIERING: Is tiering applied? Tiering is not applicable to this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Fire Prevention and local governments will be affected by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by HB 333 (2011 Regular Session of the General Assembly).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year. The Department anticipates revenues of approximately $122,500.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years. The Department anticipates the revenues generated to remain fairly constant in subsequent years.

(c) How much will it cost to administer this program for the first year? Undetermined as the administrative regulation includes registration fees for entities that previously were not present in the Commonwealth (i.e. retailer's whose primary source of business is selling consumer fireworks). This will be a variable that cannot be assessed at this time.

(d) How much will it cost to administer this program for subsequent years? For the reasons stated in subsection (c), this cannot be determined at this time.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Estimated $122,500.

Expenditures (+/-): Any excess above operational costs (estimated at $95,740) shall be used for public education as statutorily authorized by KRS 227.220(3)(f) and 227.782(4) as amended during the 2011 Regular Session of the General Assembly.

Other Explanation:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of May 10, 2011

Call to Order and Roll Call

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 10, 2011, at 1:00 p.m., in Room 149 of the Capitol Annex. Representative Johnny Bell, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the April 2011 meeting were approved.

Present were:

Members: Senators Joe Bowen, David Givens, Joey Pendleton, and Alice Forgy Kerr, and Representative Johnny Bell, and Danny Ford.

LRC Staff: Dave Nicholas, Emily Caudill, Donna Little, Sarah Amburgey, Emily Harkenrider, Karen Howard, and Laura Napier.

Guests: Maryellen Allen, Sarah Johnson, State Board of Elections; Doug Dowell, Laura Ferguson, DeVon Hankins, Jeff Mosley, Jim Oliver, Matt Warfield, Department of Revenue; Charles Lykins, Board of Hairdressers and Cosmetologists; Nathan Goldman, Board of Nursing; Margaret Everson, Mark Mangeot, Karen Waldrop, Kentucky Department of Fish and Wildlife; Kevin Brown, Chad Collins, Julian Tackett, Kentucky High School Athletic Association; Simon Berry, Rona Paul, Department of Financial Institutions; Marc A. Guilfoil, Susan Speckert, Tim West, Kentucky Horse Racing Commission; Stan Cave, Kent Ostrander, The Family Foundation of Kentucky; and Patrick Neely, Kentucky Equine Education Project.

The Administrative Regulation Review Subcommittee met on Tuesday, May 10, 2011, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY STATE BOARD OF ELECTIONS: Help America Vote Act 2002

31 KAR 6:030 & E. Uniform definition of a vote. Maryellen Allen, general counsel, and Sarah Ball Johnson, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 5, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:050. Miscellaneous taxes forms manual. Doug Dowell, attorney manager; Laura Ferguson, attorney manager; and Jeff Mosley, general counsel, represented the department.

In response to questions by Senator Givens, Ms. Ferguson stated that the Kentucky Horse Racing Commission included wagering on historical horse racing as a new form of exotic wagering in their proposed administrative regulation package, consisting of 810 KAR 1:001, 1:011, and 1:120; 811 KAR 1:005, 1:125, and 1:250; and 811 KAR 2:010, 2:060, and 2:160. If those administrative regulations became effective, it would be incumbent upon the department to have available at the same time this administrative regulation and the form necessary to collect the excise tax resulting from the new form of wagering.

In response to a question by Senator Kerr, Ms. Ferguson stated that "live racing" was not defined by KRS Chapter 138; however, KRS 138.511(3) defined the term, "daily average live handle", which included revenue collected from activities indirectly related to but not specifically including "live racing." The department therefore believed it had tacit authority to collect the tax. In his Franklin Circuit Court opinion, Judge Wingate determined, pertaining to a historical horse race that was replayed for a wagerer, the race was live in the mind of the wagerer and constituted a "live race." Ms. Ferguson stated that the court opinion said that the matter of wagering on historical horse racing needed to be considered within the context of other statutes than just those that addressed live, real-time racing.

In response to questions by Senator Givens, Ms. Ferguson stated that wagering on a historical horse race could include skill in addition to chance to affect the outcome. Many bets could be placed quickly in simulcast wagering, but not as quickly as if using a historical race machine. A historical race constituted a live race because it was live in the mind of the wagerer.

In response to questions by Representative Ford and Co-Chair Bowen, Mr. Mosley stated that the department respectfully declined to defer consideration of this administrative regulation to the June 14 meeting of the Subcommittee because this administrative regulation needed to become effective in tandem with the related package proposed by the Kentucky Horse Racing Commission.

Senator Givens stated that wagering on a historical horse race did not constitute live racing. A finding of deficiency for this administrative regulation may result in the inability to collect the excise tax if the new form of wagering became effective as it was established in the administrative regulations proposed by the Kentucky Horse Racing Commission. This subject matter should have been processed as legislation.

In response to a question by Senator Kerr, Mr. Mosley stated that the only way to insure that taxes would be collected immediately if wagering on historical racing was established was to have the tax requirements in place simultaneously when the requirements pertaining to the gaming became effective.

In response to a question by Representative Ford, Mr. Mosley stated that the effective date for this administrative regulation was estimated at roughly six weeks from this meeting of the Subcommittee.

Co-Chair Bell stated that this administrative regulation should not be found deficient because the excise tax would not be collectible if the Kentucky Horse Racing Commission's administrative regulations became effective without this administrative regulation also being effective. Mr. Mosley clarified that the department could still collect the excise tax if the suggested staff amendment was not approved; however, the administrative regulation would be better with the suggested staff amendment. The suggested staff amendment was not approved by the subcommittee due to a lack of a required second.

Representative Ford stated that since he voted against the administrative regulations regarding wagering on historical horse racing, it would be hypocritical for him to not also vote to find this administrative regulation deficient. He made a motion, which was seconded by Senator Kerr, to find this administrative regulation deficient. A roll call vote was taken. There being four (4) votes to find the administrative regulation deficient and one (1) vote against finding the administrative regulation deficient, the motion failed (See KRS 13A.020(4)).

GENERAL GOVERNMENT CABINET: Board of Hairdressers and Cosmetologists: Board

201 KAR 12:083. Educational requirements. Charles Lykins, administrator, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:490. Licensed practical nurse intravenous therapy scope of practice. Nathan Goldman, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

Margaret Everson, general counsel, and Dr. Karen Waldrop, wildlife director, represented the department.

Hunting and Fishing

301 KAR 3:100. Special commission permits.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to clarify the definition of "incorporated nonprofit conservation organization"; (2) to amend Section 3 to specify all types of special commission permits; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION CABINET: Kentucky Board of Education: Department of Education: School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics. Kevin Brown, general counsel, Department of Education, represented the department. Chad Collins, general counsel, and Julian Tackett, commissioner, represented the Kentucky High School Athletic Association.

In response to questions by Senator Givens, Mr. Tackett stated that some incorporated bylaws had revised semester grade tracking procedures to allow teacher coaches to check grades through Infinite Campus and clarified the scheduling of games and practices, especially for volleyball, basketball, and spring football practices. The decision to propose the amendments was almost unanimous, as reflected in the association's vote record.

In response to a question by Senator Pendleton, Mr. Tackett stated that the amendments were intended to create a more fair and balanced playing field as it related to spring practice.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to establish that the material incorporated by reference shall apply to high school athletics in Kentucky; and (2) to amend Section 5 to incorporate all documents and forms that will be used to govern high school athletics in Kentucky. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: Securities Division: Securities

808 KAR 10:010. Forms for application, registration, notice filing, reporting and compliance. Simon Berry, staff attorney, and Ronda Paul, certified examiner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to update the name of a form; and (2) to amend the STATUTORY AUTHORITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:030. Conduct of broker-dealers, agents, and employees; investment advisors and representatives.

A motion was made and seconded to approve the following amendments: (1) to amend Section 5 to clarify requirements for brochures and brochure supplements; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:050. Application withdrawal.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:200. Investment advisers' minimum liquid capitalization bond.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:240. Registration exemptions - sale of business.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) establish a definition for "legal entity;" and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:260. Examination requirement for individuals advising the public on securities, broker-dealers, and agents.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:280. Qualifications, eligibility, and restrictions on the use of Form U-7, Small Corporate Offering Registration.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to add authorizing language; and (3) to amend Sections 1 and 2 for clarification and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:410. Life settlement investments.

In response to a question by Senator Givens, Ms. Paul stated that the term "viatical" was changed to "life settlement investments" throughout this administrative regulation to mirror changes made by the Department of Insurance. There were no substantive changes.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct and add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to delete superfluous language; and (3) to amend Sections 1, 2, 3, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:440. Examples of dishonest or unethical practice for broker-dealers and agents.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend the STATUTORY AUTHORITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:450. Examples of dishonest or unethical practice for investment advisers and investment adviser representatives.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend the STATUTORY AUTHORITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:480. Books and records of firms employing issuer agents.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct the edition date for the "Offering Document Guidelines"; and (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:490. Procedures for Distributing and Using Funds from the Securities Fraud Prosecution and Prevention Fund.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:001. Definitions. Marc A. Guilfoil, deputy executive director, and Tim West, assistant general counsel, represented the commission. Patrick Neely, executive director, Kentucky Equine Education Project, appeared in support of 810 KAR 1:001, 1:011, and 1:120; 811 KAR 1:005, 1:125, and 1:250; and 811 KAR 2:010, 2:060, and 2:160. Stan Cave, attorney, and Kent Ostrander, executive director, represented The Family Foundation of Kentucky and appeared in opposition to 810 KAR 1:001, 1:011, and 1:120; 811 KAR 1:005, 1:125, and 1:250; and 811 KAR 2:010, 2:060, and 2:160.

In response to a question by Representative Ford, Mr. West stated that the commission respectfully declined to defer consideration of these administrative regulations to the June 14 meeting of the Subcommittee.

Senator Pendleton stated that the administrative regulations needed to move forward through the administrative regulation review process.

Mr. West stated that the Kentucky Horse Racing Commission had statutory authority to promulgate administrative regulations pertaining to wagering on historical horse racing. He provided the definition of "pari-mutuel" from the Interstate Horse Racing Act, the Racing Commissioners International Model Rules, and the decision in *Commonwealth v. Kentucky Jockey Club*. Mr. West stated that, pursuant to the aforementioned rules, for a wager to comply with the definition of "pari-mutuel," three (3) things were necessary: (1) the wagers must be in a pool; (2) patrons must wager amongst themselves, not against the house; and (3) the operator must get a statutory commission. These administrative regulations define "pari-mutuel" similarly with the aforementioned rules. Wagering on historic horse racing does not specifically include "instant racing;" however, "instant racing" would be approved by the commission as meeting "wagering on historic horse racing."

Mr. West explained how the historic horse racing wagering machines worked. A player never won more than one (1) pool. There was a "seed pool" that insured a minimum payout availability. All races in the video library had ten (10) horses without disqualifications or a dead heat. Handicapping information was provided to inject an element of skill. The pools grew in real time until there was a winner. Once there was a winner, the pool returned to the minimum "seed pool." A bet was "locked in" once the historical race initiated. The wagerer may watch the entire race or just the stretch run.

In response to questions by Senator Givens, Mr. West stated that wagering on a historical horse race did not constitute an expansion of gambling, but was a type of exotic wagering based on pari-mutuel wagering of a horse race, which was already allowed in the Commonwealth. This was an evolution of horse race wagering, not an expansion of gaming. It was up to the wagerer to determine if skill would be an element utilized in the wager process, and skill was an element that was always an option in addition to chance for determining the outcome of a wager. A "quick pick" option provided for more chance and less use of skill. Handicap information, if used, provided the opportunity for skill to be a factor in the outcome of the wager. All wagers wagered on different races within the same pool. The statute only exempted horse racing from antigambling provisions; therefore, expansion to cards or other sports would not be possible. A wager could potentially be placed within one (1) minute of a previous cycle of wagering. Mr. West stated that the appearance of the machine was more like a slot machine, but was otherwise different. The machine provided a quicker wager than one would encounter at a live, real-time horse race because of logistics, such as in moving and preparing horses. The defining characteristic of the broader rules pertaining to "pari-mutuel" was the pooling of risk, not if the event was a single race.

In response to questions by Representative Ford, Mr. West stated that the recent opinion from the Attorney General did not provide for wagering on a historical horse race and required administrative regulations to be promulgated. Duly filed administrative regulations would carry the full force of law. These administrative regulations were being promulgated to define "pari-mutuel." Mr. Guilfoil stated that wagering restrictions would prevent wagering my minors or a horse trainer under investigation who has been prohibited from attending a live, real-time race. This type of restriction would carry forward to wagering on a historical horse race. The Kentucky Horse Racing Commission was a government agency; however, the Kentucky Horsemen's Benevolent and Protective Association and the racetracks were not state governing bodies. Mr. West stated that the same types of provisions already in place for these entities in live, real time horse racing would be extended to wagers on historical horse racing. This would benefit the entire horse industry. "Live racing" was defined by Mr. West as racing in real time but subject to interpretation.

In response to questions by Co-Chair Bowen, Mr. West stated that multiple wagerers using historical horse racing machines would have wagers pooled within the same six (6) types of pools. The entire horse racing community supported wagering on historical horse racing. The public hearing was held at the Red Mile, and all attendees except the Family Foundation of Kentucky supported the proposals. Churchill Downs, Keeneland, and other tracks. were all in support. If a wagering system was pari-mutuel and pertained to horse racing, it would be approved pursuant to these administrative regulations; therefore, "instant racing" was not the only potential form of wagering on a historical horse race.

Senator Pendleton stated that these administrative regulations pertained only to horse racing. Kentucky was losing revenue to other states. Senator Pendleton made a motion to approve these administrative regulations. Co-Chair Bell determined that the motion was out of order because the Subcommittee was not authorized to approve administrative regulations, only amendments thereto. Senator Pendleton revised his motion to not find these administrative regulations deficient.

In response to a question by Senator Givens, Mr. West stated that a hypothetical wager involving plastic horses and dice would not constitute wagering on a historical or other race because if a living horse was not racing at the time the race took place, the integrity of horse racing would be undermined.

Mr. Neely stated that the Kentucky Equine Education Project represented all breeds of horses and had over 15,000 members. The project supported "instant wagering" as a form of wagering on historical horse races. Wagering on historical horse races had been successful in Arkansas. Like Kentucky, Arkansas prohibited casino gambling, but allowed pari-mutuel wagering on horse racing. Other states supplemented horse racing purses and breeders' incentive programs; therefore, without these administrative regulations, Kentucky would be at a disadvantage. New fans of horse racing have been created via this new type of exotic wagering.

In response to a question by Senator Pendleton, Mr. West stated that there was not a substantive difference between simulcast and machine wagering. Both related to horse racing and both involved pari-mutuel gaming.

In response to questions by Co-Chair Bowen, Mr. Neely stated that the target market for wagering on historical horse racing was as many consumers as possible. Skill was an important element in wagering on historical horse racing, but could be eliminated if the wagerer chose. Mr. West stated that those consumers who came to wager on historical horse racing may also be introduced to live, real-time horse racing and become a fan, rather than just the opposite happening. Mr. Neely stated that evidence supported Mr. West's hypothesis more than the opposite, which would be losing fans of live, real-time horse racing to machines.

In response to questions by Senator Kerr, Mr. West stated that financial forecasting for annual tax revenue from wagering on historical horse racing was difficult to determine. Comparison with Arkansas's revenue was not exact because of very different market sizes. The number of terminals that would be used would depend on how popular wagering on historical horse racing became. Mr. Neely stated that he did not have accurate financial forecasts either.

Senator Pendleton stated that it was unknown if wagering on historical horse racing would be successful and lucrative, but it

would not be possible to determine unless it was attempted. The policy could be changed in the future by the Subcommittee or the legislature if it was not successful. The horse industry in Kentucky was in trouble, and this may help.

In response to questions by Representative Ford, Mr. Neely stated that wagering on historical horse racing involved an element of skill if the wagerer so chose. This was a horse racing event that may be characterized as "gaming," which was a term presently part of horse racing vernacular. Mr. West stated that wagering on historical horse racing was a type of exotic wager.

Mr. Cave stated that wagering on historical horse racing did not constitute live racing. Because a video of a horse race was not a horse race but a video, the video was not under the jurisdiction of the Kentucky Horse Racing Commission. He quoted Mr. Neely's comment that "A horse race is a spectacular event, which cannot be replicated on a TV screen." Mr. Cave stated that there was a two (2) part test for determining the legality of this matter: (1) was this a horse race; and (2) was it pari-mutuel. His answer to both tests was no and he stated that the Kentucky Horse Racing Commission and the Department of Revenue were so unsure if this was legal, they sought a determination from the court system.

Mr. Cave stated that wagering on historical horse racing was not truly pari-mutuel because patrons were not betting on the same event. The patent for the instant racing machine indicated that each player bets on a unique pool of one (1). The purse comes from progressive wagering pools. The Kentucky Attorney General's opinion stated that changes to an administrative regulation that would provide for wagering on historical horse races may also necessitate changes to the statute that prohibits certain devices, which appear to include an instant racing reel device. This may be the reason the Kentucky Horse Racing Commission declined to bring an instant gaming machine to the Subcommittee meeting. It may be illegal to bring such a device into Kentucky. A Wyoming court decision recently struck down a similar law in that state on the basis that the instant gaming reel machine was a slot machine, which was prohibited by Wyoming statutes. The Wyoming court decision stated that the device was a slot machine disguised as pari-mutuel wagering.

Mr. Cave stated that the wagering excise tax could only be collected on live, real-time horse racing events; therefore, it may not be possible to collect revenue from wagering on historical horse races. Wagering on historical horse racing would violate KRS 230.370, which prohibited keeping undisclosed information about a horse race such as the horse's name, jockey's name, or owner's name.

Mr. Cave stated that The Family Foundation of Kentucky was additionally concerned that there were not questions or discussions that took place at the Kentucky Horse Racing Commission the day that the commission approved these administrative regulations for filing. There were sworn affidavits related to the approval of these administrative regulations that were dated prior to the date the commission officially took the vote.

In response to questions by Co-Chair Bowen, Mr. Cave stated that representatives from the horse racing industry had, in press reports, stated both support and opposition to wagering on historical horse racing. The public hearing was held at the Red Mile venue, which was not a nonbiased facility; therefore, the results of the public hearing did not necessarily represent the total scope of opposition.

Senator Pendleton stated that he was offended that The Family Foundation of Kentucky had insinuated that Subcommittee members were being led blindly into bad public policymaking. He stated that Kentucky needed to protect its signature horse industry and the integrity of horse racing.

In response to statements by Mr. Cave, Mr. West stated that the argument of The Family Foundation of Kentucky was an emotive one, not based on the facts. The Kentucky Horse Racing Commission was cognizant of all applicable statutes and had vetted all the issues carefully. He said that KRS 230.370 pertained to undisclosed information about a live, real-time horse race and did not apply to wagering on historical horse races.

A motion was made by Senator Givens and seconded by Representative Ford to find these administrative regulations deficient unless the agency agreed to defer. Mr. West restated the commission's decision not to defer. A roll call vote was taken. There being four (4) votes to find the administrative regulations deficient, one (1) vote not to find the administrative regulations deficient, and one (1) pass vote, the motion failed (See KRS 13A.020(4)).

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; and (2) to amend Section 1 to: (a) delete unnecessary definitions; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:009. Jockeys and apprentices.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4, 5, 8, 10, 15, and 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:011. Pari-mutuel wagering.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to include additional relevant citations; (2) to amend Section 2 to delete language that repeats statutory provisions; (3) to amend Sections 1, 3, 4, and 9 to include cross references to other administrative regulations; and (4) to amend Sections 2, 3, 4, 5, 7, 8, 9, and 10 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:120. Exotic wagering.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 5 to include cross references; and (2) to amend Sections 2 and 4 for clarity and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Harness Racing

811 KAR 1:005. Definitions.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to update citations; and (2) to amend Section 1 to: (a) delete unnecessary definitions; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:125. Pari-mutuel wagering.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to include additional relevant citations; (2) to amend Section 2 to delete language that repeats statutory provisions; (3) to amend Sections 1, 3, 4, and 9 to include cross references to other administrative regulations; and (4) to amend the TITLE and Sections 2, 3, 4, 5, 7, 8, 9, and 10 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:250. Exotic wagering.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 5 to include cross references; and (2) to amend Sections 2 and 4 for clarity and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Quarter Horse, Appaloosa, and Arabian Racing

811 KAR 2:010. Definitions.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to update citations; and (2) to amend Section 1 to: (a) delete unnecessary definitions; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 2:060. Pari-mutuel wagering.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to include additional relevant citations; (2) to amend Section 2 to delete language that repeated statutory provisions; (3) to amend Sections 1, 3, 4, and 9 to include cross references to other administrative regulations; and (4) to amend Sections 2, 3, 4, 5, 7, 8, 9, and 10 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 2:160. Exotic wagering.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 5 to include cross references; and (2) to amend Sections 2 and 4 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the June 14, 2011, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Interpreters for the Deaf and Hard of Hearing: Board

201 KAR 39:010. Definitions.

201 KAR 39:030. Application; qualifications for licensure; and certification levels.

201 KAR 39:040. Fees.

201 KAR 39:050. Renewal of licenses and extension of temporary licenses.

201 KAR 39:060. Reinstatement of license subject to disciplinary action.

201 KAR 39:070. Application and qualifications for temporary licensure.

201 KAR 39:080. Reciprocity.

201 KAR 39:090. Continuing education requirements.

201 KAR 39:100. Complaint procedure.

201 KAR 39:120. Code of ethics.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:420 & E. Child fatality or near fatality investigations.

The Subcommittee adjourned at 4:10 p.m. until June 14, 2011.

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.

NONE

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates **L - 2**

The Locator Index lists all administrative regulations published in VOLUME 37 of the Administrative Register from July 2010 through June 2011. 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 36 are those administrative regulations that were originally published in VOLUME 36 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2010 bound Volumes were published.

KRS Index **L -**

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 37 of the Administrative Register.

Technical Amendment Index **L -**

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the 2010 bound Volumes. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10) or 13A.312(2). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the Administrative Register. NOTE: Copies of the technically amended administrative regulations are available for viewing on the Legislative Research Commission Web site at http://www.lrc.ky.gov/home.htm.

Subject Index **L -**

The Subject Index is a general index of administrative regulations published in VOLUME 37 of the Administrative Register, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	36 Ky.R. Page No.	Effective Date

VOLUME 36

The administrative regulations listed under VOLUME 36 are those administrative regulations that were originally published in Volume 36 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2010 bound Volumes were published.

SYMBOL KEY:

* Statement of Consideration not filed by deadline
** Withdrawn, not in effect within 1 year of publication
*** Withdrawn before being printed in Register
**** Emergency expired after 180 days
(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS:

(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

101 KAR 2:066E		
Resubmitted	1860	1-4-10
Withdrawn		7-19-10
201 KAR 16:030E		
Resubmitted	2280	5-13-10
401 KAR 8:010E		
Resubmitted	2281	4-20-10
Replaced		(See 37 Ky.R.)
503 KAR 1:140E	1871	1-5-10
Replaced	2178	6-4-10
505 KAR 1:160E		
Resubmitted	1180	11-13-09
703 KAR 5:180E		
Resubmitted	2020-*M*	1-15-10
Replaced		
810 KAR 1:025E		
Resubmitted	2158	3-26-10
Replaced		(See 37 Ky.R.)
810 KAR 1:037E	2165	3-17-10
Replaced		(See 37 Ky.R.)
810 KAR 1:100E		
Resubmitted	2168	3-17-10
Replaced		(See 37 Ky.R.)
811 KAR 1:037E	2169	3-17-10
Replaced		(See 37 Ky.R.)
811 KAR 1:070E		
Resubmitted	2023-*M*	1-15-10
811 KAR 1:230		
Resubmitted	2172	3-17-10
Replaced		(See 37 Ky.R.)
811 KAR 2:130		
Resubmitted	2174	3-17-10
815 KAR 20:050E		
Resubmitted	992	10-01-09
Replaced	2067-*M*	6-4-10
906 KAR 1:180E		
Resubmitted	1184	11-13-09
Replaced	2197	6-4-10
921 KAR 2:530E		
Resubmitted	2294	5-14-10
Expired		

ORDINARY ADMINISTRATIVE REGULATIONS:

11 KAR 5:145		
Amended	1508	
11 KAR 12:060		
Amended	2055-*A*	7-12-10
13 KAR 1:020		
Amended	2347	9-3-10
31 KAR 3:010		
Amended	1095	
As Amended	1434	
31 KAR 6:010		
Amended	2110-*M*	
As Amended	2176	6-4-10
101 KAR 2:066		
Amended	1963	
Withdrawn		7-19-10
102 KAR 1:160		
Amended	1966	
As Amended	2177	6-4-10
102 KAR 1:225		
Amended	1967	
Amended	2056-*A*	
As Amended	2299	
Amended	2061-*A*	
As Amended	2302	6-4-10
200 KAR 5:314		
Amended	1300	
As Amended	2177	6-4-10
200 KAR 5:315		
Amended	616	
Withdrawn	**	Date
201 KAR 10:050		
Amended	1301	
As Amended	2047-*M*	
Withdrawn		7-8-10
201 KAR 16:030		
Amended	2353	
Withdrawn		11-5-10
201 KAR 20:240		
Amended	2071-*A*	6-16-10
201 KAR 20:450		
Amended	527	
201 KAR 20:490		
Amended	2073-*A*	
As Amended	2312	6-16-10
201 KAR 20:510	2402	(See 37 Ky.R.)
201 KAR 22:020		
Amended	2208	
Withdrawn		6-15-10
201 KAR 22:045		(See 37 Ky.R.)
Amended	2209	
201 KAR 22:135		(See 37 Ky.R.)
Amended	2211	
201 KAR 30:050		
Amended	152	
Amended	569	
301 KAR 1:140		(See 37 Ky.R.)
Amended	2212	
301 KAR 2:049		(See 37 Ky.R.)
Amended	2215	
301 KAR 2:132		(See 37 Ky.R.)
Amended	2075-*A*	
Amended	2335	
301 KAR 2:172		
Amended	2080-*A*	
As Amended	2314	6-3-10
301 KAR 2:178		
Amended	2082-*A*	
As Amended	2316	6-3-10
401 KAR 5:045		(See 37 Ky.R.)
Amended	2112-*M*	
401 KAR 5:070		
Amended	2114-*M*	8-5-10
401 KAR 5:075		(See 37 Ky.R.)

Regulation Number	36 Ky.R. Page No.	Effective Date
Amended	2119-*M*	
Amended	2339	
401 KAR 8:010		
Amended		
401 KAR 8:020		
Amended	2088-*A*	
As Amended	2321	6-3-10
401 KAR 8:070		
Amended	2092-*A*	
401 KAR 8:150		(See 37 Ky.R.)
Amended	2094-*A*	
401 KAR 8:200		
Amended	2097-*A*	
As Amended	2323	6-3-10
401 KAR 8:250		
Amended	2099-*A*	
As Amended	2324	
401 KAR 8:300		
Amended	2100-*A*	
As Amended	2324	6-3-10
401 KAR 8:510		
Amended	2101-*A*	
As Amended	2324	6-3-10
401 KAR 8:550		
Amended	2103-*A*	
As Amended	2325	6-3-10
401 KAR 11:010		
Amended	2094	
401 KAR 11:030		(See 37 Ky.R.)
Amended	2105-*A*	
401 KAR 47:090		(See 37 Ky.R.)
Amended	620	
401 KAR 59:015		
Amended	2355	(See 37 Ky.R.)
405 KAR 8:010		
Amended	2360	(See 37 Ky.R.)
503 KAR 1:140		
Amended	1989	
As Amended	2178	6-4-10
503 KAR 3:010		
Amended	2373	(See 37 Ky.R.)
503 KAR 3:040		
Amended	2379	(See 37 Ky.R.)
503 KAR 3:110		
Amended	2383	(See 37 Ky.R.)
601 KAR 1:200		(See 37 Ky.R.)
Amended	2220	
601 KAR 1:220	1571	
Amended	2058-*M*	
As Amended	2184	6-4-10
601 KAR 2:020		
Amended	2388	(See 37 Ky.R.)
601 KAR 12:060		
Amended	1116	
As Amended	2325	6-4-10
603 KAR 4:045		
Amended	2124-*M*	
As Amended	2184	
702 KAR 3:030		
Amended	2108-*A*	
As Amended	2326	
702 KAR 3:246		
Amended	2225	*(See 37 Ky.R.)*
703 KAR 5:060		
Amended	2109-*A*	(See 37 Ky.R.)
703 KAR 5:180	2144-M	8-6-2010
704 KAR 3:540	2260	(See 37 Ky.R.)
725 KAR 1:061		
Amended	2227	
Withdrawn		6-15-10
781 KAR 1:020		
Amended	2230	(See 37 Ky.R.)
781 KAR 1:030		
Amended	2232	(See 37 Ky.R.)
781 KAR 1:040		
Amended	2235	
Withdrawn		6-15-10
803 KAR 30:010		(See 37 Ky.R.)
Amended	2238	
804 KAR 11:030		
Amended	2112-*A*	
Amended	2344	
Withdrawn		7-7-10
810 KAR 1:025		
Amended	2244	(See 37 Ky.R.)
810 KAR 1:037	2261	(See 37 Ky.R.)
810 KAR 1:100	2264	(See 37 Ky.R.)
811 KAR 1:037	2265	(See 37 Ky.R.)
811 KAR 1:070		
Amended	2127-*M*	6-4-10
As Amended	2187	
811 KAR 1:230	2268	(See 37 Ky.R.)
811 KAR 2:130	2269	(See 37 Ky.R.)
815 KAR 7:070		(See 37 Ky.R.)
Amended	2251	
815 KAR 8:070	2004	
As Amended	2194	6-4-10
815 KAR 8:080	2006	
Amended	2048-*A*	
As Amended	2195	6-4-10
815 KAR 8:090	2008	
As Amended	2196	6-4-10
815 KAR 10:060		
Reprint	1857	
815 KAR 20:018	2271	(See 37 Ky.R.)
815 KAR 20:050		
Amended	1134	
As Amended	2067-*M*	6-4-10
815 KAR 20:191		
Amended	2135-*M*	
As Amended	2327	(See 37 Ky.R.)
815 KAR 25:080		
Amended	2114-*A*	
As Amended	2333	
900 KAR 5:020		
Amended	2255	(See 37 Ky.R.)
900 KAR 6:020		
Amended	2256	(See 37 Ky.R.)
900 KAR 6:060		
Amended	2258	(See 37 Ky.R.)
900 KAR 6:125	260	
Withdrawn		11-13-09
902 KAR 20:400	1572	
Amended	2049-*A*	(See 37 Ky.R.)
906 KAR 1:180	1403	
Amended	2103-*M*	
As Amended	2197	6-4-10
910 KAR 1:240		
Amended	2391	(See 37 Ky.R.)
910 KAR 1:260		
Amended	1997	
As Amended	2201	6-4-10
921 KAR 1:410		
Amended	2395	(See 37 Ky.R.)

Regulation Number	37 Ky.R. Page No.	Effective Date

VOLUME 37

EMERGENCY ADMINISTRATIVE REGULATIONS:
(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

31 KAR 4:130E	4	6-15-10
Replaced	680	10-1-10
31 KAR 4:140E	6	6-15-10
Replaced	682	10-1-10
31 KAR 5:010E	2128	2-1-11
31 KAR 6:030E	2352	3-10-11
32 KAR 1:030E	1381	11-2-10
32 KAR 1:190E	1382	11-2-10
32 KAR 2:130E	2130	2-7-11
101 KAR 2:095E	2522	3-31-11
101 KAR 2:102E	2525	3-31-11
101 KAR 2:210E	916	9-15-10
Replaced	1000	1-3-11
101 KAR 3:015E	2530	3-31-11
101 KAR 5:015E	211	7-13-10
Withdrawn		8-13-10
Resubmitted	664	8-13-10
Replaced	879	12-3-2010
102 KAR 1:320E	212	7-15-10
102 KAR 1:330E	215	7-15-10
102 KAR 1:178E	2132	1-24-11
103 KAR 3:040E	2134	1-27-11
103 KAR 15:195E	2535	4-1-11
105 KAR 1:190E	217	7-15-10
201 KAR 8:007E	224	7-15-10
201 KAR 8:008E	2807	4-21-11
201 KAR 8:390E	225	7-15-10
Expired	****	1-11-11
201 KAR 8:500E	228	7-15-10
Expired	****	1-11-11
201 KAR 8:510E	231	7-15-10
Replaced	1627	2-4-11
201 KAR 8:520E	233	7-15-10
Replaced	1628	2-4-11
201 KAR 8:530E	235	7-15-10
Withdrawn	**	2-8-11
201 KAR 8:532E	2808	4-21-11
201 KAR 8:550E	2143	2-2-11
201 KAR 8:540E	239	7-15-10
Replaced	1629	2-4-11
201 KAR 8:560E	241	7-15-10
Withdrawn	**	2-8-11
201 KAR 8:562E	2812	4-21-11
201 KAR 8:570E	245	7-15-10
Withdrawn		10-15-10
201 KAR 8:580E	248	7-15-10
Withdrawn		9-14-10
201 KAR 43:010E	2817	4-29-11
201 KAR 43:020E	2818	4-29-11
201 KAR 43:030E	2820	4-29-11
201 KAR 43:040E	2821	4-29-11
201 KAR 20:059E	1953	6-16-10
201 KAR 39:050E	250	6-16-10
Replaced	444	11-5-10
301 KAR 2:221E	1158	10-15-10
Replaced	1338	2-4-11
301 KAR 2:222E	1160	10-15-10
Replaced	1341	2-4-11
301 KAR 2:225E	917	8-18-10
Replaced	1029	1-3-11
302 KAR 20:115E	252	7-2-10
Replaced	955	10-13-10
302 KAR 21:005E	254	7-2-10
Replaced	955	10-13-10
401 KAR 51:052E	2352	
405 KAR 8:010E		(See 36 Ky.R.)
Replaced	689	9-2-10
501 KAR 1:070E	1619	12-1-10
503 KAR 1:110E	9	6-10-10
601 KAR 1:018E	666	8-12-10
702 KAR 7:130E	255	6-23-10
Replaced	969	10-6-10
803 KAR 25:091E	920	9-15-10
810 KAR 1:009E	13	6-15-10
Replaced	1646	2-4-11
815 KAR 1:025E		(See 36 Ky.R.)
Replaced	363	9-3-10
810 KAR 1:026E	18	6-15-10
Replaced	1649	2-4-11
810 KAR 1:037E		(See 36 Ky.R.)
Replaced	369	9-3-10
810 KAR 1:100E		(See 36 Ky.R.)
Replaced	371	9-3-10
810 KAR 1:110E	923	9-15-10
811 KAR 1:037E		(See 36 Ky.R.)
Replaced	372	9-3-10
811 KAR 1:230		(See 36 Ky R.)
Replaced	372	9-3-10
811 KAR 1:240E	927	9-15-10
811 KAR 2:150E	931	9-15-10
811 KAR 2:020E	22	6-15-10
811 KAR 2:130E		(See 36 Ky.R.)
Replaced	374	9-3-10
811 KAR 2:140E	30	6-15-10
815 KAR 10:070E	2824	5-10-11
900 KAR 5:020E	1384	10-18-10
Replaced	2400	5-6-11
900 KAR 5:020E	2826	5-6-11
900 KAR 6:060E	1385	10-18-10
902 KAR 20:320E	1387	10-18-10
902 KAR 20:330E	1404	10-18-10
902 KAR 20:410E	935	9-1-10
902 KAR 30:001E	257	7-15-10
Replaced	1659	2-4-11
902 KAR 30:110E	260	7-15-10
Replaced	1661	2-4-11
902 KAR 30:120E	265	7-15-10
Replaced	1665	2-4-11
902 KAR 30:130E	274	7-15-10
Replaced	1673	2-4-11
902 KAR 30:150E	279	7-15-10
Replaced	1677	2-4-11
902 KAR 30:160E	283	7-15-10
Replaced	1680	2-4-11
902 KAR 30:180E	286	7-15-10
Replaced	1682	2-4-11
902 KAR 30:200	289	7-15-10
Replaced	1685	2-4-11
902 KAR 45:005E	939	9-8-10
Withdrawn		10-18-10
902 KAR 45:110E	942	9-8-10
Withdrawn		10-18-10
907 KAR 1:012E	295	7-1-10
Replaced	1446	12-1-10
907 KAR 1:014E	298	7-1-10
907 KAR 1:015E	302	7-1-10
Replaced	1447	12-1-10
907 KAR 1:019E	305	7-1-10
Replaced	1449	12-1-10
907 KAR 1:479E	312	7-1-10
Replaced	1455	12-1-10
907 KAR 6:005E	1954	1-3-10

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
907 KAR 1:677E	318	7-1-10
Replaced	1460	12-1-10
907 KAR 1:825E	323	7-1-10
Replaced	1464	12-1-10
907 KAR 3:090E	333	7-1-10
Replaced	1479	12-1-10
907 KAR 3:100E	348	7-1-10
Replaced	1489	12-1-10
907 KAR 3:215E	1164	10-1-10
907 KAR 5:005E	352	7-1-10
921 KAR 2:040E	672	7-23-10
921 KAR 3:030E	674	7-23-10
922 KAR 1:420E	1960	1-3-11
ORDINARY ADMINISTRATIVE REGULATIONS:		
4 KAR 1:010	872	
As Amended	1168	12-3-10
4 KAR 1:020	873	12-3-10
4 KAR 1:030	875	12-3-10
4 KAR 1:040	877	
As Amended	1168	12-3-10
10 KAR 7:011 (r)	2096	5-6-11
11 KAR 3:100		
Amended	71	10-1-10
Amended	1736	4-1-11
11 KAR 4:080		
Amended	1746	
As Amended	2150	4-1-11
11 KAR 5:145		
Amended	84	10-1-10
11 KAR 15:090		
Amended	2440	
Withdrawn by agency	**	4-28-11
11 KAR 19:010	1923	
As Amended	2150	4-1-11
11 KAR 19:020	1925	
As Amended	2152	4-1-11
11 KAR 19:030	1927	
As Amended	2153	4-1-11
13 KAR 2:060		
Amended	2250	
As Amended	2539	
16 KAR 2:150		
Amended	1317	
As Amended	1622	2-4-11
16 KAR 3:050		
Amended	1500	
As Amended	1963	
16 KAR 5:010		
Amended	2027	
As Amended	2365	5-6-11
16 KAR 6:010		
Amended	86	
As Amended	678	10-1-10
Amended	2036	
As Amended	2373	5-6-11
16 KAR 6:020		
Amendment	1318	
As Amended	1622	2-4-11
16 KAR 6:030		
Amended	89	
As Amended	680	10-1-10
Amended	2665	
31 KAR 4:130		
Amended	91	
As Amended	680	10-1-10
31 KAR 4:140		
Amended	94	
As Amended	682	10-1-10
31 KAR 5:010		
Amended	2254	
As Amended	2542	
31 KAR 6:030		
Amended	2443	
As Amended	2828	
32 KAR 1:030		
Amended	1502	
32 KAR 1:190		
Amended	1504	
32 KAR 2:130		
Amended	2256	
40 KAR 2:350		
Amended	96	
Amended	741	11-5-10
101 KAR 2:210		
Amended	1000	1-3-11
101 KAR 5:015	605	
Withdrawn		8-13-10
Resubmitted	879	12-3-10
102 KAR 1:175		
Amendment	2039	
As Amended	2375	5-6-11
102 KAR 1:178	2303	
102 KAR 1:225		
Amended	1322	
As Amended	1964	3-1-11
102 KAR 1:230		
Amended	1323	
As Amended	1965	3-1-11
102 KAR 1:245		
Amended	1327	
As Amended	1968	3-1-11
102 KAR 1:320	606	
Amended	989	
As Amended	1170	11-8-10
101 KAR 1:325		
Amended	2666	
101 KAR 2:095		
Amended	2669	
101 KAR 2:102		
Amended	2672	
101 KAR 3:015		
Amended	2677	
102 KAR 1:330	609	
As Amended	1172	11-8-10
103 KAR 3:010		
Amended	2258	
As Amended	2543	
103 KAR 3:020		
Amended	755	
As Amended	1172	12-3-10
103 KAR 3:030		
Amended	2263	
As Amended	2547	
103 KAR 3:040		
Amended	2273	
As Amended	2556	
103 KAR 3:050		
Amended	760	
103 KAR 15:180	1107	
Amended	1490	
As Amended	1625	2-4-11
103 KAR 15:190	2097	
Withdrawn	**	4-4-11
103 KAR 15:195	2769	
103 KAR 18:070		
Amended	409	
As Amended	1177	12-3-10
103 KAR 31:102	611	
As Amended	945	11-5-10
105 KAR 1:190		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
Amended	410	
As Amended	945	11-5-10
105 KAR 1:370		
Amended	99	
As Amended	683	10-1-10
106 KAR 2:020		
Amended	417	
As Amended	1177	11-22-10
107 KAR 2:010		
Amended	1505	
As Amended	2154	4-1-11
109 KAR 15:020		
Amended	767	
As Amended	1178	11-17-10
200 KAR 5:400	1109	
As Amended	1627	2-4-11
200 KAR 5:410	1111	
As Amended	1411	1-3-11
201 KAR 1:065		
Amended	1507	
As Amended	1969	3-4-11
201 KAR 1:140		
Amended	1508	
As Amended	1969	3-4-11
201 KAR 2:015		
Amended	2041	
As Amended	2376	5-6-11
201 KAR 2:165		
Amended	1328	2-4-11
201 KAR 2:330	612	
As Amended	951	10-2-10
201 KAR 3:045		
Amended	2891	
201 KAR 3:081*(r)*	3020	
201 KAR 3:090	3021	
201 KAR 7:075		
Amended	1001	
As Amended	1411	12-15-10
201 KAR 8:006		
Repealed	224	7-15-10
201 KAR 8:015		
Repealed	224	7-15-10
201 KAR 8:070		
Repealed	224	7-15-10
201 KAR 8:130		
Repealed	224	7-15-10
201 KAR 8:135		
Repealed	224	7-15-10
201 KAR 8:140		
Repealed	224	7-15-10
201 KAR 8:150		
Repealed	224	7-15-10
201 KAR 8:160		
Repealed	224	7-15-10
201 KAR 8:170		
Repealed	224	7-15-10
201 KAR 8:180		
Repealed	224	7-15-10
201 KAR 8:185		
Repealed	224	7-15-10
201 KAR 8:190		
Repealed	224	7-15-10
201 KAR 8:220		
Repealed	224	7-15-10
201 KAR 8:225		
Repealed	224	7-15-10
201 KAR 8:230		
Repealed	224	7-15-10
201 KAR 8:240		
Repealed	224	7-15-10
201 KAR 8:250		
Repealed	224	7-15-10
201 KAR 8:260		
Repealed	224	7-15-10
201 KAR 8:265		
Repealed	224	7-15-10
201 KAR 8:270		
Repealed	224	7-15-10
201 KAR 8:277		
Repealed	224	7-15-10
201 KAR 8:280		
Repealed	224	7-15-10
201 KAR 8:290		
Repealed	224	7-15-10
201 KAR 8:310		
Repealed	224	7-15-10
201 KAR 8:320		
Repealed	224	7-15-10
201 KAR 8:330		
Repealed	224	7-15-10
201 KAR 8:340		
Repealed	224	7-15-10
201 KAR 8:345		
Repealed	224	7-15-10
201 KAR 8:350		
Repealed	224	7-15-10
201 KAR 8:355		
Repealed	224	7-15-10
201 KAR 8:400		
Repealed	224	7-15-10
201 KAR 8:420		
Repealed	224	7-15-10
201 KAR 8:430		
Repealed	224	7-15-10
201 KAR 8:440		
Repealed	224	7-15-10
201 KAR 8:450		
Repealed	224	7-15-10
201 KAR 8:460		
Repealed	224	7-15-10
201 KAR 8:470		
Repealed	224	7-15-10
201 KAR 8:480		
Repealed	224	7-15-10
201 KAR 8:500	614	
Withdrawn	**	2-8-11
201 KAR 8:510	616	
As Amended	1627	2-4-11
201 KAR 8:520	618	
As Amended	1628	2-4-11
201 KAR 8:530	620	
Withdrawn	**	2-8-11
201 KAR 8:531	2304	
Withdrawn by agency	**	4-21-11
201 KAR 8:532	3022	
201 KAR 8:540	624	
As Amended	1629	2-4-11
201 KAR 8:550	2308	
Amended	2876	
201 KAR 8:560	626	
Withdrawn	**	2-8-11
201 KAR 8:561	2314	
Withdrawn by agency	**	4-21-11
201 KAR 8:562	3027	
201 KAR 8:570	630	
Withdrawn		10-14-10
201 KAR 8:571	1929	
As Amended	2377	5-6-11
201 KAR 8:580	633	
Withdrawn		9-14-10
201 KAR 8:581	1931	
As Amended	2378	5-6-11

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
201 KAR 9:005		
Repealed	194	9-15-10
201 KAR 9:006*(r)*	194	9-15-10
201 KAR 10:050		
Amended	1510	
As Amended	1970	3-4-11
201 KAR 12:083		
Amended	2282	
As Amended	2829	
201 KAR 17:030		
Amended	1003	
As Amended	1412	12-15-10
201 KAR 18:150		
Amended	768	
As Amended	1178	12-3-10
201 KAR 20:056		
Amended	419	12-15-10
Amended	1215	
Amended	2043	5-6-10
Amended	2892	
201 KAR 20:057		
Amended	421	10-20-10
201 KAR 20:059		
Amended	2046	
201 KAR 20:061	635	
As Amended	1413	12-15-10
201 KAR 20:062	637	
Amended	1217	
As Amended	1415	12-15-10
Amended	2895	
201 KAR 20:070		
Amended	423	10-20-10
Amended	2900	
201 KAR 20:110		
Amended	426	10-20-10
Amended	2902	
201 KAR 20:162		
Amended	428	10-20-10
201 KAR 20:215		
Amended	2905	
201 KAR 20:225		
Amended	429	10-20-10
Amended	2907	
201 KAR 20:230		
Amended	431	
As Amended	952	10-20-10
201 KAR 20:240		
Amended	432	10-20-10
Amended	2909	
201 KAR 20:310		
Amended	2911	
201 KAR 20:370		
Amended	434	10-20-10
201 KAR 20:411		
Amended	436	10-20-10
Amended	2913	
201 KAR 20:470		
Amended	438	10-20-10
Amended	1748	4-1-11
Amended	2915	
201 KAR 20:490		
Amended	2446	
As Amended		
As Amended	2830	
201 KAR 20:510		(See 36 Ky.R.)
As Amended	357	8-18-10
201 KAR 22:020		
Amended	775	12-3-10
201 KAR 22:045		(See 36 Ky.R.)
As Amended	34	7-21-10
201 KAR 22:053		
Amended	776	
As Amended	1184	12-3-10
201 KAR 22:135		(See 36 Ky.R.)
As Amended	35	7-21-10
201 KAR 22:070		
Amended	779	
As Amended	1419	12-15-10
201 KAR 23:020		
Amended	1330	
As Amended	1971	3-4-11
201 KAR 23:050		
Amended	1331	
As Amended	1630	2-4-11
201 KAR 23:070		
Amended	1332	
As Amended	1972	3-4-11
201 KAR 23:075		
Amended	1335	
Amended	1692	
As Amended	1974	3-4-11
201 KAR 26:115		
Amended	1511	
As Amended	1976	
201 KAR 26:121		
Amended	1513	
201 KAR 26:125		
Amended	1514	
As Amended	1977	
201 KAR 26:130		
Amended	1516	
As Amended	1977	
201 KAR 26:155		
Amended	1518	
As Amended	1978	
201 KAR 26:171		
Amended	1520	
As Amended	1979	
201 KAR 26:175		
Amended	1523	
201 KAR 26:180		
Amended	1526	
201 KAR 26:185		
Amended	1527	
As Amended	1982	
201 KAR 26:190		
Amended	1529	
As Amended	1983	
201 KAR 26:200		
Amended	1532	
As Amended	1984	
201 KAR 26:215		
Amended	1533	
201 KAR 26:230		
Amended	1535	
As Amended	1985	
201 KAR 26:270		
Amended	1537	
201 KAR 26:290		
Amended	1539	
201 KAR 26:310	1597	
As Amended	1987	
201 KAR 28:010		
Amended	1005	
As Amended	1420	12-15-10
201 KAR 28:170		
Amended	2449	
201 KAR 28:130		
Amended	1006	
As Amended	1422	12-15-10
201 KAR 30:040		
Amended	101	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
201 KAR 30:050		
Amended	2047	
As Amended	2380	5-6-11
201 KAR 30:070		
Amended	2049	5-6-11
201 KAR 30:125	2100	5-6-11
201 KAR 30:150		
Amended	2050	
As Amended	2381	5-6-11
201 KAR 30:190		
Amended	2052	5-6-11
201 KAR 34:020		
Amended	443	11-5-10
201 KAR 36:060		
Amended	780	12-15-10
201 KAR 36:070		
Amended	783	
Withdrawn		12-14-10
201 KAR 39:010	2507	
201 KAR 39:030		
Amended	2451	
201 KAR 39:040		
Amended	2453	
201 KAR 39:050		
Amended	444	11-5-10
Amended	2455	
201 KAR 39:060		
Amended	2457	
201 KAR 39:070		
Amended	2459	
201 KAR 39:080		
Amended	2460	
201 KAR 39:090		
Amended	2461	
201 KAR 39:100		
Amended	2464	
201 KAR 39:120		
Amended	2466	
201 KAR 40:040		
Amended	784	11-16-10
201 KAR 40:050		
Amended	786	
As Amended	1186	11-16-10
201 KAR 40:060		
Amended	787	
As Amended	1187	11-16-10
201 KAR 40:070		
Amended	789	
As Amended	1188	11-16-10
201 KAR 40:080		
Amended	791	
As Amended	1189	11-16-10
201 KAR 40:100		
Amended	794	11-16-10
201 KAR 41:100	1112	
As Amended	1987	
201 KAR 42:010		
Amended	1009	
Amended	1695	
As Amended	1988	
201 KAR 42:020		
Amended	1011	
Amended	1696	
As Amended	1989	
201 KAR 42:030		
Amended	1012	
As Amended	1989	
201 KAR 42:035		
Amended	1013	
Amended	1697	
As Amended	1990	
201 KAR 42:040		
Amended	1015	
Withdrawn		9-15-10
Amended	1699	
As Amended	1991	
201 KAR 42:050		
Amended	1016	
Amended	1700	
As Amended	1992	
201 KAR 42:060		
Amended	1018	
Amended	1702	
As Amended	1993	
201 KAR 42:070		
Amended	1020	
Amended	1704	
As Amended	1993	
201 KAR 42:080	1113	
Amended	1705	
As Amended	1994	
201 KAR 42:040		
Amended	796	
Withdrawn		9-14-10
201 KAR 42:110		
Amended	1022	
As Amended	1996	
201 KAR 43:010	3031	
201 KAR 43:020	3032	
201 KAR 43:030	3034	
201 KAR 43:040	3035	
300 KAR 2:040	195	
As Amended	952	11-5-10
301 KAR 1:010		
Amended	446	
As Amended	952	10-7-10
301 KAR 1:140		(See 36 Ky.R.)
As Amended	35	8-5-10
301 KAR 1:152	2772	
301 KAR 1:201		
Amended	102	9-2-10
301 KAR 1:410		
Amended	107	
Amended	744	10-7-10
301 KAR 1:155		
Amended	2056	
Amended	2430	
As Amended	2565	
301 KAR 2:049		(See 36 Ky.R.)
As Amended	37	8-5-10
Amended	2283	
301 KAR 2:082		
Amended	1024	
Withdrawn		12-9-10
301 KAR 2:095		
Amended	2682	
301 KAR 2:122		
Amended	1752	4-1-11
301 KAR 2:132		(See 36 Ky.R.)
As Amended	41	8-5-10
Amended	2061	5-6-11
301 KAR 2:172		
Amended	2467	
301 KAR 2:178		
Amended	2065	
As Amended	2568	
301 KAR 2:221		
Amended	1338	2-4-11
301 KAR 2:222		
Amended	1341	2-4-11
301 KAR 2:225		
Amended	1029	1-3-11

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
301 KAR 2:251		
Amended	797	11-4-10
301 KAR 2:300		
Amended	2683	
301 KAR 3:012	1934	
As Amended	2155	4-1-11
301 KAR 3:022		
Amended	1754	4-1-11
301 KAR 3:100		
Amended	2287	
As Amended	2832	
301 KAR 4:050		
Amended	1345	2-4-11
302 KAR 20:020		
Amended	448	
As Amended	953	10-13-10
302 KAR 20:050		
Amended	450	
As Amended	954	10-13-10
302 KAR 20:065		
Amended	1031	
As Amended	1630	2-4-11
302 KAR 20:066		
Amended	1035	
As Amended	1634	2-4-11
302 KAR 20:115		
Amendment	451	
As Amended	955	10-13-10
302 KAR 21:005	642	
As Amended	955	10-13-10
302 KAR 29:010		
Amended	112	
As Amended	684	9-8-10
302 KAR 29:050		
Amended	114	
As Amended	686	9-8-10
302 KAR 29:060		
Amended	118	9-8-10
302 KAR 34:020		
Amended	800	
Withdrawn	**	10-1-10
304 KAR 1:040		
Amended	121	
Withdrawn		8-18-10
307 KAR 1:060	643	
As Amended	956	11-5-10
400 KAR 2:090		
Amended	1346	
Withdrawn	*	12-15-10
Amended	2920	
401 KAR 5:006		
Amended	1757	
Amended	2434	
401 KAR 5:045		(See 36 Ky.R.)
As Amended	44	8-5-10
401 KAR 5:075		(See 36 Ky.R.)
As Amended	45	8-5-10
401 KAR 8:020		
Amendment	2924	
401 KAR 8:100		
Amended	123	
Amended	991	1-3-11
401 KAR 8:150		(See 36 Ky.R.)
As Amended	50	8-5-10
401 KAR 10:030		
Amended	2071	
Amended	2655	
401 KAR 11:030		(See 36 Ky.R.)
As Amended	51	8-5-10
401 KAR 42:005		
Amended	2686	
401 KAR 42:011		
Amended	2691	
401 KAR 42:020		
Amended	2693	
401 KAR 42:030		
Amended	2696	
401 KAR 42:040		
Amended	2700	
401 KAR 42:045	2773	
401 KAR 42:050		
Amended	2702	
401 KAR 42:060		
Amended	2704	
401 KAR 42:070		
Amended	2706	
401 KAR 42:080		
Amended	2709	
401 KAR 42:090		
Amended	2711	
401 KAR 42:095	2775	
401 KAR 42:200		
Amended	2713	
401 KAR 42:250		
Amended	2715	
401 KAR 42:290		
Amended	2726	
401 KAR 42:300		
Amended	2729	
401 KAR 42:315	2777	
401 KAR 42:316		
Amended	2731	
401 KAR 42:320		
Amended	2733	
401 KAR 42:330		
Amended	2735	
401 KAR 42:335		
Amended	2738	
401 KAR 42:340		
Amended	2739	
401 KAR 47:205	2778	
401 KAR 47:207	2781	
401 KAR 48:205	2784	
401 KAR 48:206	2788	
401 KAR 48:207	2792	
401 KAR 48:208	2795	
401 KAR 47:090		(See 36 Ky.R.)
As Amended	53	8-5-10
401 KAR 49:080		
Amended	1349	
Amended	1707	
401 KAR 51:001		
Amended	452	
Amended	1222	1-3-11
401 KAR 51:052		
Amended	2470	
401 KAR 52:001		
Amended	469	
Amended	1245	1-3-11
401 KAR 59:015		(See 36 Ky.R.)
Amended	748	
As Amended	957	10-7-10
405 KAR 8:010		(See 36 Ky.R.)
Amended	390	
As Amended	689	9-2-10
500 KAR 2:020		
Amended	474	
As Amended	961	11-5-10
500 KAR 3:020		
Amended	478	
As Amended	964	11-5-10
500 KAR 8:010		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
Amendment	2927	
500 KAR 20:010	1598	5-6-11
500 KAR 20:020	1600	5-6-11
501 KAR 1:030		
Amended	1541	
As Amended	2160	4-1-11
501 KAR 1:070	1936	
As Amended	2382	5-6-11
501 KAR 1:080	1602	
As Amended	2160	4-1-11
501 KAR 2:020		
Amendment	2929	
501 KAR 2:040		
Amendment	2930	
501 KAR 2:050		
Amendment	2932	
501 KAR 2:060		
Amendment	2933	
501 KAR 2:070		
Amendment	2935	
501 KAR 3:010		
Amendment	2936	
501 KAR 3:020		
Amendment	2938	
501 KAR 3:030		
Amendment	2940	
501 KAR 3:040		
Amendment	2942	
501 KAR 3:050		
Amendment	2943	
501 KAR 3:060		
Amendment	2949	
501 KAR 3:070		
Amendment	2951	
501 KAR 3:080		
Amendment	2952	
501 KAR 3:090		
Amendment	2954	
501 KAR 3:100		
Amendment	2956	
501 KAR 3:110		
Amendment	2958	
501 KAR 3:120		
Amendment	2959	
501 KAR 3:130		
Amendment	2961	
501 KAR 3:140		
Amendment	2964	
501 KAR 3:150		
Amendment	2966	
501 KAR 3:160	3038	
501 KAR 3:170	3040	
501 KAR 6:020		
Amended	1043	
As Amended	1424	1-3-11
501 KAR 6:090		
Amended	1045	
As Amended	1425	1-3-11
501 KAR 7:010		
Amended	2969	
501 KAR 7:020		
Amended	2970	
501 KAR 7:030		
Amended	2972	
501 KAR 7:040		
Amended	2973	
501 KAR 7:050		
Amended	2975	
501 KAR 7:060		
Amended	2978	
501 KAR 7:070		
Amended	2979	
501 KAR 7:080		
Amended	2981	
501 KAR 7:090		
Amended	2982	
501 KAR 7:100		
Amended	2984	
501 KAR 7:110		
Amended	2985	
501 KAR 7:120		
Amended	2987	
501 KAR 7:130		
Amended	2989	
501 KAR 7:140		
Amended	2990	
501 KAR 7:150	3041	
501 KAR 13:010		
Amended	2992	
502 KAR 12:010		
Amended	1546	
As Amended	1997	
502 KAR 31:020		
Amended	1047	
As Amended	1426	1-3-11
502 KAR 32:010		
Amended	482	
As Amended	966	11-5-10
503 KAR 1:110		(See 36 Ky.R.)
Amended	127	
As Amended	702	10-1-10
503 KAR 1:170		
Amended	801	
As Amended	1190	12-3-10
503 KAR 3:010		(See 36 Ky.R.)
As Amended	705	10-1-10
503 KAR 3:040		(See 36 Ky.R.)
As Amended	709	10-1-10
503 KAR 3:110		(See 36 Ky.R.)
As Amended	713	10-1-10
505 KAR 1:130		
Amended	2289	
Amended	2881	
601 KAR 1:018		
Amended	808	
As Amended	2000	
601 KAR 1:101		
Amended	1549	4-1-11
601 KAR 1:200		(See 36 Ky.R.)
As Amended	56	8-6-10
601 KAR 1:201		
Amended	131	
As Amended	717	9-7-10
601 KAR 2:020		(See 36 Ky.R.)
As Amended	357	8-10-10
601 KAR 9:015		
Amended	484	
As Amended	968	11-5-10
601 KAR 9:140		
Amended	1354	2-4-11
601 KAR 9:205	1116	
As Amended	1428	1-3-11
601 KAR 9:210		
Amendment	1761	
As Amended	2161	4-1-11
601 KAR 14:030	645	
As Amended	968	11-5-10
603 KAR 4:035		
Amended	2741	
702 KAR 3:246		*(See 37 Ky.R.)*
As Amended	1428	1-3-11
702 KAR 5:110		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
Amended	135	
As Amended	1430	1-3-11
702 KAR 7:065		
Amended	2480	
As Amended	2834	
702 KAR 7:125		
Amended	2291	
As Amended	2572	
702 KAR 7:130		
Amended	485	
As Amended	969	10-6-10
703 KAR 5:060		(See 36 Ky.R.)
As Amended	359	7-2-10
703 KAR 5:170		
Repealed	1361	2-4-11
703 KAR 5:171	1361	7-2-10
703 KAR 5:190	1362	2-4-11
703 KAR 5:200	3042	
704 KAR 3:540		(See 36 Ky.R.)
As Amended	60	7-12-10
704 KAR 3:303		
Amended	137	
Withdrawn	*	8-15-10
Amended	1015	2-4-11
704 KAR 3:305		
Amended	138	
As Amended	1644	2-4-11
725 KAR 1:061		
Amended	487	
As Amended	969	11-5-10
781 KAR 1:020		(See 36 Ky.R.)
As Amended	360	9-3-10
781 KAR 1:030		(See 36 Ky.R.)
As Amended	362	9-3-10
781 KAR 1:040		
Amended	489	
Amended	995	
As Amended	1431	1-3-11
787 KAR 1:070		
Amended	2994	
787 KAR 1:090		
Amended	814	
As Amended	1196	12-3-10
Amended	2996	
787 KAR 1:210		
Amended	2898	
787 KAR 1:320		
Amended	1051	
As Amended	1433	1-3-11
787 KAR 2:020		
Amended	141	
As Amended	719	10-1-10
Amended	1551	
803 KAR 2:300		
Amended	144	
As Amended	721	10-1-10
803 KAR 2:306		
Amended	146	
As Amended	721	10-1-10
803 KAR 2:308		
Amended	149	10-1-10
803 KAR 2:316		
Amended	151	10-1-10
803 KAR 2:318		
Amended	1053	1-3-11
803 KAR 2:320		
Amended	153	
As Amended	722	10-1-10
803 KAR 2:400		
Amended	1055	
As Amended	1434	1-3-11
803 KAR 2:402		
Amended	1057	1-3-11
803 KAR 2:411		
Amended	1059	1-3-11
803 KAR 2:412		
Amended	1061	
As Amended	1434	1-3-11
803 KAR 2:413		
Amended	1065	1-3-11
803 KAR 2:414		
Amended	1067	
As Amended	1437	1-3-11
803 KAR 2:417		
Amended	1069	
As Amended	1437	1-3-11
803 KAR 2:418		
Amended	1071	
As Amended	1438	1-3-11
803 KAR 2:419		
Amended	1073	
As Amended	1438	1-3-11
803 KAR 2:421		
Amended	1075	
As Amended	1438	1-3-11
803 KAR 2:423		
Amended	1076	
As Amended	1439	1-3-11
803 KAR 2:430		
As Amended	1440	1-3-11
803 KAR 2:425		
Amended	159	10-1-10
803 KAR 2:430	1117	
803 KAR 2:500		
Amended	161	10-1-10
803 KAR 2:505	1118	
As Amended	1440	1-3-11
803 KAR 2:550	1120	
As Amended	1440	1-3-11
803 KAR 25:010		
Amended	2081	
Withdrawn		2-7-11
803 KAR 25:089		
Amended	1078	
Amended	1492	
803 KAR 25:091		
Amended	1080	
As Amended	2005	
803 KAR 30:010		(See 36 Ky.R.)
As Amended	61	8-6-10
805 KAR 3:100		
Amended	1083	
As Amended	1441	1-3-11
805 KAR 7:020		
Amended	164	
As Amended	727	9-2-10
805 KAR 8:060		
Amended	165	
As Amended	727	9-2-10
806 KAR 2:150	1938	
Amended	2438	
806 KAR 3:170		
Amended	2746	
806 KAR 9:001		
Amended	493	
As Amended	971	11-5-10
806 KAR 9:030		
Amended	495	
As Amended	1197	12-3-10
806 KAR 9:060		
Amended	496	
As Amended	972	11-5-10

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
806 KAR 9:070		
Amended	498	
As Amended	972	11-5-10
806 KAR 9:121	646	11-5-10
806 KAR 9:220		
Amended	1554	
806 KAR 12:120		
Amended	2754	
806 KAR 12:150		
Amended	1084	
Amended	1712	3-4-11
806 KAR 12:170		
Amended	1087	
Amended	1714	3-4-11
806 KAR 13:120		
Amended	1557	
As Amended	2007	
806 KAR 15:090	881	1-3-11
806 KAR 17:180		
Amended	500	11-5-10
806 KAR 17:320		
Amended	816	
Amended	1494	2-4-11
806 KAR 17:460		
Amended	1763	4-1-11
806 KAR 17:540		
Amended	502	11-5-10
806 KAR 17:545		
As Amended	973	
Amended	504	11-5-10
806 KAR 17:555		
Amended	507	11-5-10
806 KAR 44:010	1603	
As Amended	2010	
806 KAR 46:011*(r)*	1122	1-3-11
806 KAR 46:040	1123	1-3-11
806 KAR 46:050	648	
As Amended	976	11-5-10
808 KAR 10:010		
Amended	2482	
As Amended	2836	
808 KAR 10:030		
Amended	2484	
As Amended	2837	
808 KAR 10:050		
Amended	2487	
As Amended	2839	
808 KAR 10:200		
Amended	2488	
As Amended	2839	
808 KAR 10:240		
Amended	2492	
As Amended	2842	
808 KAR 10:260		
Amended	2493	
As Amended	2842	
808 KAR 10:280		
Amended	2494	
As Amended	2843	
808 KAR 10:410		
Amended	2498	
As Amended	2845	
808 KAR 10:440		
Amended	2500	
As Amended	2847	
808 KAR 10:450		
Amended	2503	
As Amended	2849	
808 KAR 10:480	2509	
As Amended	2850	
808 KAR 10:490	2511	
As Amended	2851	
808 KAR 12:002		
Amended	822	
As Amended	1197	12-3-10
808 KAR 12:020		
Amended	823	
Withdrawn		10-11-10
808 KAR 12:021	883	
As Amended	1198	12-3-10
808 KAR 12:022	886	
As Amended	1200	12-3-10
808 KAR 12:023	887	
As Amended	1200	12-3-10
808 KAR 12:024	888	
As Amended	1201	12-3-10
808 KAR 12:026	889	
As Amended	1201	12-3-10
808 KAR 12:066	891	12-3-10
808 KAR 12:076	892	12-3-10
808 KAR 12:086	893	12-3-10
808 KAR 12:096	894	12-3-10
810 KAR 1:001		
Amended	825	
As Amended	2855	
810 KAR 1:009		
Amended	169	
As Amended	1202	
As Amended	1646	2-4-11
Amended	2295	
Withdrawn	**	5-20-11
810 KAR 1:011		
Amended		
As Amended	2852	
810 KAR 1:012		
Amended	1562	
Amended	2216	
As Amended	2386	5-6-11
810 KAR 1:025	363	9-3-10
810 KAR 1:026		
Amended	174	
As Amended	1205	
As Amended	1649	2-4-11
810 KAR 1:027		
Amended	1565	
Amended	2219	
As Amended	2388	5-6-11
810 KAR 1:037		(See 36 Ky.R.)
As Amended	369	9-3-10
810 KAR 1:100		(See 36 Ky.R.)
As Amended	371	9-3-10
810 KAR 1:110	1125	
Amended	1716	
As Amended	2011	
810 KAR 1:120	895	
As Amended	2859	
810 KAR 1:130	1128	
As Amended	1653	2-4-11
810 KAR 1:140	2101	
As Amended	2391	5-6-11
811 KAR 1:005		
Amended	834	
As Amended	2860	
811 KAR 1:037		(See 36 Ky.R.)
As Amended	372	9-3-10
811 KAR 1:125		
Amended	837	
As Amended	2862	
811 KAR 1:220		
Amended	1089	
As Amended	1654	2-4-11
811 KAR 1:230		(See 36 Ky.R.)

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
As Amended	372	9-3-10
811 KAR 1:240	1130	
Amended	1720	
As Amended	2013	
811 KAR 1:250	898	
As Amended	2871	
811 KAR 1:260	1134	
As Amended	1656	2-4-11
811 KAR 1:280	2318	
As Amended	2575	
811 KAR 2:010		
Amended	847	
As Amended	2872	
811 KAR 2:020		
Amended	178	
As Amended	977	11-5-10
811 KAR 2:060		
Amended	851	
811 KAR 2:130		(See 36 Ky.R.)
As Amended	374	9-3-10
811 KAR 2:140	196	11-5-10
811 KAR 2:150	1136	
Amended	1723	
As Amended	2015	
811 KAR 2:160	900	
811 KAR 2:170	1140	
As Amended	1657	2-4-11
811 KAR 2:180	2328	
As Amended	2584	
811 KAR 2:190	2338	
Amended	2883	
815 KAR 6:040		
Amendment	1764	
Withdrawn	**	3-14-11
815 KAR 6:050	1939	
Withdrawn	**	3-14-11
815 KAR 6:060	1941	
Withdrawn	**	3-14-11
815 KAR 7:070		(See 36 Ky.R.)
As Amended	65	8-6-10
815 KAR 7:110		
Amended	859	
As Amended	1209	11-17-10
815 KAR 7:120		
Amended	1092	
Amended	1727	
815 KAR 7:125		
Amended	1095	
Amended	1729	
815 KAR 8:035	903	
As Amended	1211	11-17-10
815 KAR 8:050		
Amended	862	
As Amended	1211	11-17-10
815 KAR 8:100	199	
As Amended	730	10-1-10
815 KAR 10:070	3045	
815 KAR 20:018		(See 36 Ky.R.)
As Amended	68	8-6-10
815 KAR 20:020		
Amended	186	
As Amended	732	10-1-10
815 KAR 20:030		
Amended	2757	
815 KAR 20:032		
Amended	864	
As Amended	1212	12-3-10
815 KAR 20:034		
Amended	1568	
As Amended	2017	
815 KAR 20:070		
Amended	2759	
815 KAR 20:191		(See 36 Ky.R.)
As Amended	375	
815 KAR 20:100		
Amended	191	
Withdrawn		11-19-10
815 KAR 35:060		
Amended	3000	
815 KAR 35:100		
Amended	1356	
As Amended	1658	2-4-11
Amended	3002	
900 KAR 5:020		(See 36 Ky.R.)
Amended	403	
As Amended	735	9-15-10
Amended	1571	
Amended	2222	
As Amended	2400	5-6-11
Amended	3005	
900 KAR 6:020		(See 36 Ky.R.)
As Amended	736	9-15-10
900 KAR 6:030		
Amended	2762	
900 KAR 6:060		(See 36 Ky.R.)
As Amended	380	9-15-10
Amended	1572	5-6-11
900 KAR 6:125	1605.	
Amended	2223	
As Amended	2400	5-6-11
900 KAR 7:030		
Amended.	1097	1-3-11
Amended	2763	
902 KAR 2:060		
Amendment	1101	
As Amended	1442	1-3-11
902 KAR 8:040		
Amended	1767	
As Amended	2161	4-1-11
902 KAR 8:060		
Amended	1769	
As Amended	2163	4-1-11
902 KAR 8:070		
Amended	1773	
As Amended	2166	4-1-11
902 KAR 8:080		
Amended	1776	
As Amended	2168	4-1-11
902 KAR 8:090		
Amended	1781	
As Amended	2171	4-1-11
902 KAR 8:096		
Amended	1783	
As Amended	2172	4-1-11
902 KAR 8:100		
Amended	1787	
As Amended	2175	4-1-11
902 KAR 8:110		
Amended	1789	
As Amended	2176	4-1-11
902 KAR 8:120		
Amended	1791	
As Amended	2177	4-1-11
902 KAR 8:140		
Amended	1796	
As Amended	2181	4-1-11
902 KAR 8:160		
Amended	3006	
902 KAR 8:165		
Amended	3010	
902 KAR 8:170		
Amended	3012	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	37 Ky.R. Page No.	Effective Date
902 KAR 20:320		
Amended	1574	
Amended	2223	
As Amended	2402	5-6-11
902 KAR 20:330		
Amended	1590	
Amended	2243	
As Amended	2418	5-6-11
902 KAR 20:400		(See 36 Ky.R.)
As Amended	381	8-18-10
902 KAR 20:410	1142	
Amended	1731	
As Amended	2019	
902 KAR 30:001		
Amended	510	
Amended	1251	
As Amended	1659	2-4-11
902 KAR 30:110		
Amended	512	
Amended	1253	
As Amended	1661	2-4-11
902 KAR 30:120		
Amended	518	
Amended	1259	
As Amended	1665	
Reprint	2350	2-4-11
902 KAR 30:130		
Amended	526	
Amended	1267	
As Amended	1673	2-4-11
902 KAR 30:141 *(r)*	650	2-4-11
902 KAR 30:150		
Amended	532	
Amended	1272	
As Amended	1677	2-4-11
902 KAR 30:160		
Amended	536	
Amended	1276	
As Amended	1680	2-4-11
902 KAR 30:180		
Amended	538	
Amended	1278	
As Amended	1682	2-4-11
902 KAR 30:200		
Amended	542	
Amended	1282	
As Amended	1685	2-4-11
902 KAR 50:110		
Amended	1798	
As Amended	2182	4-1-11
902 KAR 100:010		
Amended	1799	
As Amended	2594	
902 KAR 100:021		
Amended	1814	
As Amended	2607	
902 KAR 100:058		
Amended	1820	
As Amended	2612	
902 KAR 100:070		
Amended	1827	
As Amended	2618	
902 KAR 100:072		
Amended	1837	
As Amended	2627	
902 KAR 100:165		
Amended	1863	
As Amended	2651	
907 KAR 1:012		
Amended	548	
As Amended	1446	12-1-10
907 KAR 1:014		
Amended	551	
As Amended	984	
907 KAR 1:015		
Amended	554	
As Amended	1447	12-1-10
907 KAR 1:019		
Amended	557	
Amended	1288	
As Amended	1449	12-1-10
907 KAR 1:479		
Amended	564	
As Amended	1455	12-1-10
907 KAR 6:005	2111	
As Amended	2424	5-6-11
907 KAR 1:677		
Amended	571	
Amended	1295	
As Amended	1460	12-1-10
907 KAR 1:715		
Amended	2298	
Amended	2886	
907 KAR 1:825		
Amended	576	
As Amended	1464	12-1-10
907 KAR 3:090		
Amended	585	
Amended	1301	
As Amended	1472	12-1-10
907 KAR 3:100		
Amended	601	
As Amended	1487	12-1-10
907 KAR 3:215	1364	
Amended	2023	
As Amended	2183	4-1-11
907 KAR 5:005	651	
As Amended	986	11-5-10
908 KAR 2:230	1366	
As Amended	1689	2-4-11
908 KAR 3:050		
Amended	1358	
As Amended	2022	
910 KAR 1:190		
Amended	1866	
As Amended	2185	4-1-11
910 KAR 1:200		
Amended	1875	
As Amended	2193	4-1-11
910 KAR 1:240		(See 36 Ky.R.)
Amended	404	
As Amended	736	9-15-10
921 KAR 1:410		(See 36 Ky.R.)
As Amended	385	818
921 KAR 2:006		
Amended	1885	4-1-11
921 KAR 2:016		
Amended	1893	
As Amended	2202	4-1-11
921 KAR 2:017		
Amended	1901	4-1-11
921 KAR 2:040		
Amended	866	
As Amended	1213	11-17-10
921 KAR 2:370		
Amended	1904	4-1-11
As Amended	2208	
921 KAR 2:500		
Amended	1909	4-1-11
921 KAR 3:010		
Amended	1912	
As Amended	2212	4-1-11

Regulation Number	37 Ky.R. Page No.	Effective Date	Regulation Number	37 Ky.R. Page No.	Effective Date
921 KAR 3:025					
Amended	1915	4-1-11			
921 KAR 3:030					
Amended	868	11-17-10			
921 KAR 3:035					
Amended	1918				
As Amended	2427	5-6-11			
922 KAR 1:430					
Amended	2092				

SYMBOL KEY:
* Statement of Consideration not filed by deadline
** Withdrawn, not in effect within 1 year of publication
*** Withdrawn before being printed in Register
(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

KRS INDEX

KRS SECTION	REGULATION
6.500	4 KAR 1:010
	4 KAR 1:040
6.505	4 KAR 1:010
	4 KAR 1:040
6.515	4 KAR 1:010
	4 KAR 1:020
	4 KAR 1:040
6.520	4 KAR 1:010
	4 KAR 1:040
6.525	4 KAR 1:020
6.521	4 KAR 1:010
	4 KAR 1:040
6.525	4 KAR 1:010
	4 KAR 1:020
	4 KAR 1:040
6.530	4 KAR 1:010
	4 KAR 1:040
6.535	4 KAR 1:010
	4 KAR 1:040
6.575	4 KAR 1:010
	4 KAR 1:040
6.577	4 KAR 1:010
	4 KAR 1:040
11A	105 KAR 1:370
13B	900 KAR 7:030
15A.065	505 KAR 1:130
15A.067	301 KAR 3:100
15A.070	500 KAR 8:010
15A.340	500 KAR 20:010
	500 KAR 20:020
15A.342	500 KAR 20:010
	500 KAR 20:020
15A.344	500 KAR 20:010
	500 KAR 20:020
18A.030	101 KAR 2:210
18A.095	105 KAR 1:370
18A.110	101 KAR 3:015
18A.195	101 KAR 3:015
18A.225	101 KAR 2:210
18A.2254	101 KAR 2:210
13B	201 KAR 20:161
	201 KAR 20:162
	907 KAR 1:019
13B.140	907 KAR 1:825
15A.160	500 KAR 3:020
15A.340	10 KAR 7:011
15A.342	10 KAR 7:011
15A.344	10 KAR 7:011
39A.350-366	201 KAR 8:532
42.470	103 KAR 3:010
45A.490-45A.494	200 KAR 5:400
45A.050	200 KAR 5:400
45A.070	200 KAR 5:400
45A.090	200 KAR 5:400
45A.180	200 KAR 5:400
45A.182	200 KAR 5:400
45A.365	200 KAR 5:400
45A.370	200 KAR 5:400
45A.375	200 KAR 5:400
45A.465	200 KAR 5:410
45A.470	200 KAR 5:410
45A.695	200 KAR 5:400
45A.745	200 KAR 5:400
45A.825	200 KAR 5:400
45A.853	200 KAR 5:400
15.310	503 KAR 1:170
16.505	105 KAR 1:190
16.645	105 KAR 1:190
18A	902 KAR 8:090
21.345	4 KAR 1:010
	4 KAR 1:040
21.347	4 KAR 1:010
	4 KAR 1:040
21.350	4 KAR 1:010
	4 KAR 1:040
21.357	4 KAR 1:010
	4 KAR 1:040
21.360	4 KAR 1:010
	4 KAR 1:040
21.370	4 KAR 1:010
	4 KAR 1:020
	4 KAR 1:040
21.375	4 KAR 1:010
	4 KAR 1:040
21.380	4 KAR 1:010
	4 KAR 1:040
21.385	4 KAR 1:010
	4 KAR 1:020
	4 KAR 1:040
21.400	4 KAR 1:010
	4 KAR 1:040
21.405	4 KAR 1:010
	4 KAR 1:040
21.410	4 KAR 1:010
	4 KAR 1:040
21.415	4 KAR 1:010
	4 KAR 1:040
21.420	4 KAR 1:010
	4 KAR 1:040
21.425	4 KAR 1:010
	4 KAR 1:040
21.427	4 KAR 1:010
	4 KAR 1:040
21.440	4 KAR 1:010
	4 KAR 1:040
21.450	4 KAR 1:010
	4 KAR 1:040
21.460	4 KAR 1:010
	4 KAR 1:020
	4 KAR 1:040
21.470	4 KAR 1:010
	4 KAR 1:040
21.480	4 KAR 1:010
	4 KAR 1:040
21.510	4 KAR 1:010
	4 KAR 1:040
21.525	4 KAR 1:010
	4 KAR 1:040
21.530	4 KAR 1:010
	4 KAR 1:040
21.540	4 KAR 1:010
	4 KAR 1:020
	4 KAR 1:030
	4 KAR 1:040
21.550	4 KAR 1:010
	4 KAR 1:040
21.560	4 KAR 1:010
	4 KAR 1:040
21.570	4 KAR 1:010
	4 KAR 1:040
67A.028	501 KAR 3:010
67B.020	501 KAR 3:010
217B	302 KAR 29:010
	302 KAR 29:060
217B.190	302 KAR 29:050
217B.515	302 KAR 29:050
217B.520	302 KAR 29:050
217B.525	302 KAR 29:050
217B.545	302 KAR 29:050
218A	105 KAR 1:370
196	501 KAR 6:020
	501 KAR 6:090
197	501 KAR 6:020
	501 KAR 6:090

KRS INDEX

KRS SECTION	REGULATION
257	302 KAR 20:065
439	501 KAR 6:020
	501 KAR 6:090
15.330	503 KAR 1:110
15.386	503 KAR 1:110
15.404	503 KAR 1:110
15.440	503 KAR 1:110
17.170	502 KAR 32:010
17.175	502 KAR 32:010
17.500-17.540	502 KAR 31:020
18A.005	101 KAR 1:325
18A.030	101 KAR 2:095
18A.0751	101 KAR 1:325
18A.110	101 KAR 2:095
	101 KAR 2:102
18A.111	101 KAR 1:325
18A.195	101 KAR 2:102
36.470	106 KAR 2:020
36.474	105 KAR 1:190
	106 KAR 2:020
36.476	106 KAR 2:020
42.470	103 KAR 3:030
	103 KAR 3:050
42.495	109 KAR 15:020
43.070	109 KAR 15:020
	501 KAR 3:030
	501 KAR 7:030
45.237-241	921 KAR 2:017
46.010	109 KAR 15:020
46.020	109 KAR 15:020
48.010	401 KAR 51:001
61.394	101 KAR 2:102
	101 KAR 3:015
	105 KAR 1:370
61.510	105 KAR 1:190
61.645	105 KAR 1:370
61.820	601 KAR 14:030
61.826	601 KAR 14:030
61.870-61.884	103 KAR 3:010
	103 KAR 3:020
	103 KAR 3:030
	103 KAR 3:050
	922 KAR 1:420
61.874	201 KAR 20:240
61.878	401 KAR 42:335
61.900-61.930	500 KAR 2:020
64.012	103 KAR 3:010
64.810	109 KAR 15:020
64.840	109 KAR 15:020
64.850	109 KAR 15:020
65.117	109 KAR 15:020
65.900-65.925	109 KAR 15:020
65.944	109 KAR 15:020
66.045	109 KAR 15:020
66.480	109 KAR 15:020
67A	401 KAR 5:006
67A.028	501 KAR 7:010
67B.020	501 KAR 7:010
67.075-67.077	109 KAR 15:020
67	401 KAR 5:006
67.900	501 KAR 7:010
	501 KAR 13:010
68.020	109 KAR 15:020
	501 KAR 3:030
68.210	109 KAR 15:020
68.245	109 KAR 15:020
68.250	109 KAR 15:020
68.275	109 KAR 15:020
68.280	109 KAR 15:020
68.300	109 KAR 15:020
69A.210	501 KAR 3:020
72.020	502 KAR 12:010
72.025	501 KAR 7:090
74	401 KAR 5:006
76	401 KAR 5:006
78.510	105 KAR 1:190
78.545	105 KAR 1:190
91A.080	806 KAR 2:150
91A.0804	806 KAR 2:150
96	401 KAR 5:006
108	401 KAR 5:006
116.045	31 KAR 4:130
	31 KAR 4:140
116.048	921 KAR 3:030
116.0452	31 KAR 4:130
116.995	31 KAR 4:140
117.079	31 KAR 4:130
	31 KAR 4:140
	31 KAR 5:010
117.085	31 KAR 4:130
	31 KAR 4:140
	31 KAR 5:010
117.086	31 KAR 4:130
	31 KAR 4:140
117.265	31 KAR 6:030
117.379	31 KAR 6:030
117.381	31 KAR 6:030
117.995	31 KAR 4:140
119.265	31 KAR 4:140
121.150	32 KAR 2:130
121.160	32 KAR 1:190
121.180	32 KAR 1:030
	32 KAR 1:190
131.00-131.130	103 KAR 3:020
	103 KAR 3:050
131.010	103 KAR 3:010
131.020	103 KAR 3:010
	103 KAR 3:050
131.030	103 KAR 3:010
	103 KAR 3:030
131.041	103 KAR 3:010
	103 KAR 3:040
131.041-131.081	103 KAR 3:030
131.051	103 KAR 3:010
	103 KAR 3:040
131.061	103 KAR 3:010
	103 KAR 3:040
131.071	103 KAR 3:040
131.081	103 KAR 3:010
	103 KAR 3:040
	103 KAR 3:050
131.50-131.240	103 KAR 3:020
131.110	103 KAR 3:010
	103 KAR 3:040
	103 KAR 3:050
	601 KAR 1:201
131.130	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:040
131.150	103 KAR 3:010
131.155	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:040
	103 KAR 3:050
131.170	103 KAR 3:010
	103 KAR 3:040
	103 KAR 3:050
131.180	103 KAR 3:040
131.181	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
131.183	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
131.190	103 KAR 3:010
	103 KAR 3:030

KRS SECTION	REGULATION
	103 KAR 3:040
	103 KAR 3:050
131.240	103 KAR 3:010
131.340	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:040
	103 KAR 3:050
131.500	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:040
	103 KAR 3:050
131.510	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:040
	103 KAR 3:050
131.530	103 KAR 3:010
131.540	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:040
	103 KAR 3:050
132.010	109 KAR 15:020
	815 KAR 7:120
	815 KAR 7:125
132.020	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
132.130-132.160	103 KAR 3:010
132.130-132.180	103 KAR 3:030
	103 KAR 3:050
132.180	103 KAR 3:010
132.190	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
132.200	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
132.220	103 KAR 3:010
132.220-132.270	103 KAR 3:030
	103 KAR 3:050
132.227	103 KAR 3:010
132.230	103 KAR 3:010
132.260	103 KAR 3:010
132.270	103 KAR 3:010
132.290	103 KAR 3:010
	103 KAR 3:030
132.290-132.320	103 KAR 3:050
132.310	103 KAR 3:010
	103 KAR 3:030
132.320	103 KAR 3:010
	103 KAR 3:030
132.360	103 KAR 3:030
132.450	103 KAR 3:030
	103 KAR 3:050
132.487	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
132.510	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
132.820	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
132.825	103 KAR 3:030
132.990	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
132.0225	109 KAR 15:020
132.585	109 KAR 15:020
133.045	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
133.110	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
133.120	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
133.130	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
133.240	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
134.015	103 KAR 3:030
134.020	103 KAR 3:010
	103 KAR 3:030
134.119	103 KAR 3:030
134.122	103 KAR 3:030
134.128	103 KAR 3:030
134.129	103 KAR 3:030
134.390	103 KAR 3:010
	103 KAR 3:030
134.420	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
134.430	103 KAR 3:010
	103 KAR 3:030
134.440	103 KAR 3:010
	103 KAR 3:030
134.500	103 KAR 3:010
	103 KAR 3:030
134.580	103 KAR 3:010
	103 KAR 3:050
134.590	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
134.800	103 KAR 3:010
	103 KAR 3:030
134.805	103 KAR 3:010
	103 KAR 3:030
134.810	103 KAR 3:010
	103 KAR 3:030
134.815	103 KAR 3:010
	103 KAR 3:030
134.820	103 KAR 3:010
	103 KAR 3:030
134.825	103 KAR 3:030
134.830	103 KAR 3:030
134.800-134.830	103 KAR 3:050
134.825	103 KAR 3:010
134.830	103 KAR 3:010
135.010	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
135.020	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
135.050	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.020	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.050	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.070	103 KAR 3:010
	103 KAR 3:050
136.071	103 KAR 3:010
	103 KAR 3:050
136.0704	103 KAR 3:010
	103 KAR 3:050
136.090	103 KAR 3:010
	103 KAR 3:050
136.100	103 KAR 3:010
	103 KAR 3:050

KRS INDEX

KRS SECTION	REGULATION
136.115-136.180	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.188	103 KAR 3:030
136.1802-136-1806	103 KAR 3:030
136.1873	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.310-136.335	103 KAR 3:050
136.310	103 KAR 3:010
	103 KAR 3:030
136.320	103 KAR 3:010
	103 KAR 3:030
	103 KAR 15:180
136.330	103 KAR 3:010
	103 KAR 3:030
	103 KAR 15:180
136.335	103 KAR 3:010
	103 KAR 3:030
136.340	103 KAR 15:180
136.350	103 KAR 15:180
136.370	103 KAR 15:180
136.377	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.390	103 KAR 15:180
136.392	103 KAR 3:010
136.392	103 KAR 3:050
136.545	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.575	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
136.600-136.660	103 KAR 3:010
	103 KAR 3:020
	103 KAR 3:030
	103 KAR 3:050
137.130	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
137.160	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
138.165	103 KAR 3:050
138.195	103 KAR 3:050
138.210-138.885	103 KAR 3:050
138.227	601 KAR 1:201
138.448	103 KAR 3:010
138.655-138.7291	601 KAR 1:201
138.885	103 KAR 3:010
139.010	103 KAR 31:102
139.010-139.795	103 KAR 3:020
139.200	103 KAR 3:010
	103 KAR 31:102
139.185	103 KAR 3:010
139.240	103 KAR 3:010
139.330	103 KAR 3:010
139.390	103 KAR 3:010
139.550	103 KAR 3:010
139.533	103 KAR 31:102
140.010-140.360	103 KAR 3:050
141.0101	103 KAR 3:040
141.010	103 KAR 3:040
	103 KAR 18:070
141.011	103 KAR 3:040
141.016	103 KAR 3:040
141.020	103 KAR 3:040
141.0202	103 KAR 3:040
	103 KAR 15:180
	103 KAR 18:070
141.030	103 KAR 3:040
141.040	103 KAR 3:040

KRS SECTION	REGULATION
	103 KAR 15:180
141.0401	103 KAR 3:040
141.0405	103 KAR 3:040
141.041	103 KAR 3:040
141.042	103 KAR 3:040
141.044	103 KAR 3:040
141.062	103 KAR 3:040
141.065	103 KAR 3:040
141.066	103 KAR 3:040
141.067	103 KAR 3:040
141.068	103 KAR 3:040
141.069	103 KAR 3:040
141.070	103 KAR 3:040
141.071	103 KAR 3:040
141.120	103 KAR 3:040
141.121	103 KAR 3:040
141.160	103 KAR 3:040
141.170	103 KAR 3:040
141.180	103 KAR 3:040
141.200	103 KAR 3:040
141.205	103 KAR 3:040
141.206	103 KAR 3:040
141.208	103 KAR 3:040
141.300	103 KAR 3:040
141.310	103 KAR 3:040
	103 KAR 18:070
141.315	103 KAR 18:070
141.325	103 KAR 3:040
141.330	103 KAR 3:040
141.335	103 KAR 3:040
141.347	103 KAR 3:040
141.370	103 KAR 3:040
141.381	103 KAR 3:040
141.382	103 KAR 3:040
141.383	103 KAR 3:040
141.385	103 KAR 3:040
141.386	103 KAR 3:040
141.390	103 KAR 3:040
141.395	103 KAR 3:040
141.400	103 KAR 3:040
141.401	103 KAR 3:040
141.402	103 KAR 3:040
141.403	103 KAR 3:040
141.405	103 KAR 3:040
141.407	103 KAR 3:040
141.412	103 KAR 3:040
141.415	103 KAR 3:040
141.418	103 KAR 3:040
141.420	103 KAR 3:040
141.421	103 KAR 3:040
141.423	103 KAR 3:040
141.424	103 KAR 3:040
141.4242	103 KAR 3:040
141.4244	103 KAR 3:040
141.428	103 KAR 3:040
141.430	103 KAR 3:040
141.434	103 KAR 3:040
141.436	103 KAR 3:040
	103 KAR 3:040
141.438	103 KAR 15:195
1414.437	103 KAR 3:040
141.432	103 KAR 15:180
141.433	103 KAR 15:180
141.434	103 KAR 15:180
141.050	103 KAR 3:010
141.0401	103 KAR 3:010
	103 KAR 15:180
141.210	103 KAR 3:010
141.235	103 KAR 3:010
141.340	103 KAR 3:010
141.990	103 KAR 3:040
142.010	103 KAR 3:010
142.010-142.404	103 KAR 3:050

KRS INDEX

KRS SECTION	REGULATION
142.050	103 KAR 3:010
142.321	103 KAR 3:010
142.327	103 KAR 3:010
142.357	103 KAR 3:010
143.030	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143.037	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143.040	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143.050	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
	103 KAR 15:180
143.060	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143.085	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143.990	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.010	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.030	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.035	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.037	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.080	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.090	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.100	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.991	103 KAR 3:010
	103 KAR 3:030
	103 KAR 3:050
143A.310	103 KAR 15:195
144.132	103 KAR 3:020
144.137	103 KAR 3:020
146.200-146.360	401 KAR 10:030
146.410-146.535	401 KAR 10:030
146.550-146.570	401 KAR 10:030
146.600-146.619	401 KAR 10:030
146.410	400 KAR 2:090
146.440	400 KAR 2:090
146.990	401 KAR 10:030
148.544	300 KAR 2:040
149.590	109 KAR 15:020
150.010	301 KAR 1:152
	301 KAR 1:155
	301 KAR 1:201
	301 KAR 1:410
	301 KAR 2:049
	301 KAR 2:132
	301 KAR 2:172
	301 KAR 2:178
	301 KAR 2:221
	301 KAR 2:222
	301 KAR 2:300
	301 KAR 4:050
150.015	301 KAR 4:050
150.025	301 KAR 1:010
	301 KAR 1:410
	301 KAR 2:221
	301 KAR 3:022
150.092	301 KAR 2:300
150.120	301 KAR 1:155
	301 KAR 1:410
150.170	301 KAR 1:152
	301 KAR 1:155
	301 KAR 1:201
	301 KAR 1:410
	301 KAR 2:251
	301 KAR 2:300
	301 KAR 3:100
150.175	301 KAR 1:152
	301 KAR 1:155
	301 KAR 1:201
	301 KAR 1:410
	301 KAR 2:300
	301 KAR 3:022
	301 KAR 3:100
150.177	301 KAR 2:172
150.180	301 KAR 2:095
	301 KAR 2:172
	301 KAR 2:251
	301 KAR 3:022
150.183	301 KAR 3:022
150.235	301 KAR 1:410
150.240	301 KAR 3:012
	301 KAR 3:022
150.275	301 KAR 3:022
	301 KAR 2:221
	301 KAR 2:222
150.280	301 KAR 2:095
	301 KAR 3:022
150.290	301 KAR 2:095
	301 KAR 3:022
150.330	301 KAR 2:221
	301 KAR 2:222
	301 KAR 2:225
150.340	301 KAR 1:201
	301 KAR 2:178
	301 KAR 2:122
	301 KAR 2:221
	301 KAR 2:222
	301 KAR 2:225
150.360	301 KAR 1:410
	301 KAR 2:122
	301 KAR 2:251
150.370	301 KAR 1:410
	301 KAR 2:049
	301 KAR 2:251
	301 KAR 2:122
	301 KAR 2:178
150.390	301 KAR 2:172
	301 KAR 2:178
150.399	301 KAR 2:049
	301 KAR 2:251
150.400	301 KAR 2:049
	301 KAR 2:251
150.410	301 KAR 2:049
150.411	301 KAR 2:172
150.415	301 KAR 2:251
150.416	301 KAR 2:251
150.440	301 KAR 1:410
150.445	301 KAR 1:152
	301 KAR 1:155
	301 KAR 1:410
150.450	301 KAR 1:152
	301 KAR 1:155
	301 KAR 3:022

KRS INDEX

KRS SECTION	REGULATION
150.485	301 KAR 3:022
150.520	301 KAR 3:022
150.525	301 KAR 3:022
150.600	301 KAR 3:022
	301 KAR 4:050
150.603	301 KAR 2:225
	301 KAR 3:022
150.620	301 KAR 1:410
	301 KAR 3:022
150.640	301 KAR 3:012
150.660	301 KAR 3:022
150.720	301 KAR 3:022
	302 KAR 20:066
150.990	301 KAR 1:152
	301 KAR 1:155
	301 KAR 1:201
	301 KAR 1:410
	301 KAR 2:049
	301 KAR 2:122
	301 KAR 2:132
	301 KAR 2:172
	301 KAR 2:178
	301 KAR 2:221
	301 KAR 2:222
	301 KAR 2:251
	301 KAR 3:012
151B.127	103 KAR 3:040
151B.190	781 KAR 1:040
151B.280	787 KAR 2:020
151.634	401 KAR 8:100
154.12-2086	103 KAR 3:040
154.20-33	307 KAR 1:060
154.20-050	103 KAR 3:040
154.20-206	103 KAR 3:020
154.22-050	103 KAR 3:010
154.22-060	103 KAR 3:010
	103 KAR 3:040
154.22-070	103 KAR 3:010
154.22-050-154.22.070	103 KAR 3:050
154.23-010	103 KAR 3:010
	103 KAR 3:050
154.23-035	103 KAR 3:040
154.24-110	103 KAR 3:010
	103 KAR 3:040
	103 KAR 3:050
154.24-130	103 KAR 3:010
	103 KAR 3:050
154.25-030	103 KAR 3:040
154.26-090	103 KAR 3:010
	103 KAR 3:040
	103 KAR 3:050
154.28-090	103 KAR 3:010
	103 KAR 3:040
	103 KAR 3:050
154.32-010	103 KAR 3:040
154.34-080	103 KAR 3:040
154.34-0101	103 KAR 3:050
154.34-010	103 KAR 3:010
154.45-090	103 KAR 3:040
154.48-025	103 KAR 3:040
155.170	103 KAR 3:010
	103 KAR 3:040
	103 KAR 3:050
154.60-010-154.60-30	307 KAR 1:060
156.070	702 KAR 7:065
	704 KAR 3:303
	907 KAR 1:715
156.160	704 KAR 3:303
	704 KAR 3:305
157.320	702 KAR 7:125
	702 KAR 7:130
157.350	702 KAR 7:125
	702 KAR 7:130
157.360	702 KAR 7:125
	702 KAR 7:130
157.370	702 KAR 5:110
	702 KAR 7:130
158.030	702 KAR 7:125
158.035	902 KAR 2:060
158.070	702 KAR 7:125
158.100	702 KAR 7:125
158.240	702 KAR 7:125
158.645	704 KAR 3:305
158.6451	703 KAR 5:200
	704 KAR 3:303
	704 KAR 3:305
158.782	703 KAR 5:171
	703 KAR 5:190
159.010	702 KAR 7:125
159.030	702 KAR 7:125
159.035	702 KAR 7:125
159.140	702 KAR 7:125
159.170	702 KAR 7:125
158.6455	703 KAR 5:171
	703 KAR 5:190
160.290	704 KAR 3:303
160.303	200 KAR 5:400
160.613-160.617	103 KAR 3:010
	103 KAR 3:020
	103 KAR 3:050
160.6154	103 KAR 3:010
161.020	16 KAR 2:150
	16 KAR 3:050
	16 KAR 6:010
	16 KAR 6:020
	16 KAR 6:030
161.027	16 KAR 6:030
	16 KAR 3:050
161.028	16 KAR 2:150
	16 KAR 3:050
	16 KAR 5:010
	16 KAR 6:010
	16 KAR 6:020
161.030	16 KAR 2:150
	16 KAR 3:050
	16 KAR 5:010
	16 KAR 6:010
	16 KAR 6:020
	16 KAR 6:030
161.200	702 KAR 7:125
161.220-161.990	102 KAR 1:245
161.310	105 KAR 1:370
161.430	102 KAR 1:175
	102 KAR 1:178
161.585	102 KAR 1:330
161.611	102 KAR 1:230
161.700	102 KAR 1:320
161.716	102 KAR 1:225
162.070	200 KAR 5:400
164A.575	200 KAR 5:400
164A.590	200 KAR 5:400
164.001	13 KAR 2:060
164.020	13 KAR 2:060
164.357	105 KAR 1:370
164.518	11 KAR 4:080
164.744	11 KAR 3:100
	11 KAR 4:080
	11 KAR 5:145
164.748	11 KAR 3:100
	11 KAR 4:080
164.753	11 KAR 3:100
	11 KAR 4:080
	11 KAR 5:145
164.769	11 KAR 4:080
164.772	201 KAR 22:020

KRS INDEX

KRS SECTION	REGULATION
	201 KAR 20:225
	815 KAR 35:060
164.780	11 KAR 4:080
164.785	11 KAR 4:080
164.945	16 KAR 5:010
164.7535	11 KAR 5:145
	11 KAR 4:080
164.7889	11 KAR 5:145
164.7890	11 KAR 19:010
	11 KAR 19:020
	11 KAR 19:030
165A.330	201 KAR 40:040
	201 KAR 40:050
	201 KAR 40:060
	201 KAR 40:070
	201 KAR 40:080
	201 KAR 40:100
165A.350	201 KAR 40:070
165A.370	201 KAR 40:040
	201 KAR 40:050
	201 KAR 40:060
	201 KAR 40:070
	201 KAR 40:080
	201 KAR 40:100
165A.450	201 KAR 40:050
165A.460	201 KAR 40:040
165A.465	201 KAR 40:050
	201 KAR 40:070
165A.470	201 KAR 40:050
	201 KAR 40:070
165A.475	201 KAR 40:050
	201 KAR 40:070
165A.480	201 KAR 40:050
	201 KAR 40:070
165A.485	201 KAR 40:060
	201 KAR 40:070
165.500	201 KAR 40:080
165A.510	201 KAR 40:040
	201 KAR 40:050
	201 KAR 40:060
	201 KAR 40:080
	201 KAR 40:100
171.420	725 KAR 1:061
171.450	725 KAR 1:061
174.120	601 KAR 14:030
174.125	601 KAR 14:030
175.450	601 KAR 1:018
176.010	200 KAR 5:400
176.082	200 KAR 5:400
176.430	401 KAR 10:030
177.390-177.570	601 KAR 1:018
177.0734-177.0738	603 KAR 4:035
177.9771	601 KAR 1:018
186A.055	601 KAR 9:205
186A.070	601 KAR 9:205
186A.074	601 KAR 9:205
186A.105	601 KAR 9:140
186A.130	601 KAR 9:205
186A.165	601 KAR 9:205
186A.170	601 KAR 9:205
186A.190	601 KAR 9:210
186A.185	601 KAR 9:210
186A.193	601 KAR 9:210
186A.195	601 KAR 9:205
	601 KAR 9:210
186A.215	601 KAR 9:205
186A.245	601 KAR 9:205
189A.103	500 KAR 8:010
186.010	601 KAR 1:018
	601 KAR 9:205
186.020	601 KAR 9:205
186.050	601 KAR 1:018
186.070	601 KAR 9:015

KRS SECTION	REGULATION
	601 KAR 9:140
186.100	601 KAR 9:140
186.650	601 KAR 1:201
189.221	601 KAR 1:018
189.222	601 KAR 1:018
189.270	601 KAR 1:018
189.2715	601 KAR 1:018
189.2717	601 KAR 1:018
190.010	601 KAR 9:015
190.030	601 KAR 9:140
194A.010	907 KAR 3:215
194A.030	907 KAR 3:215
194A.050	907 KAR 3:215
194A.540	201 KAR 20:070
	201 KAR 20:110
	201 KAR 20:225
196.035	501 KAR 2:060
	501 KAR 3:100
197.020	501 KAR 2:060
	501 KAR 3:100
198.010	815 KAR 7:120
	815 KAR 7:125
198B.040	601 KAR 9:015
	815 KAR 7:110
	815 KAR 7:120
	815 KAR 7:125
198B.050	815 KAR 7:110
	815 KAR 7:120
	815 KAR 7:125
198B.060	815 KAR 7:110
	815 KAR 7:120
	815 KAR 7:125
198B.070	815 KAR 7:110
198B.080	815 KAR 7:120
	815 KAR 7:125
198B.110	815 KAR 7:120
	815 KAR 7:125
198B.260	815 KAR 7:120
	815 KAR 7:125
198B.6673	815 KAR 8:100
198B.650-198B.689	501 KAR 13:010
198B.658	815 KAR 8:050
198B.660	815 KAR 8:050
198B.664	815 KAR 8:050
198B.666	815 KAR 8:035
198B.668	815 KAR 8:035
198B.672	815 KAR 8:050
198B.706	815 KAR 6:060
198B.712	815 KAR 6:040
	815 KAR 6:050
198B.722	815 KAR 6:040
	815 KAR 6:050
198B.724	815 KAR 6:040
	815 KAR 6:050
198B.990	815 KAR 7:120
	815 KAR 7:125
200.080-200.120	505 KAR 1:130
200.503	908 KAR 2:230
200.505	908 KAR 2:230
200.650-200.276	902 KAR 30:110
200.660	902 KAR 30:130
200.664	815 KAR 8:035
	902 KAR 30:130
200.654	902 KAR 30:120
	907 KAR 1:014
	907 KAR 1:015
202A.091	501 KAR 3:020
202.508	908 KAR 2:230
202.509	908 KAR 2:230
205.010	921 KAR 2:006
	921 KAR 2:040
205.200	921 KAR 2:016
	921 KAR 2:040

KRS INDEX

KRS SECTION	REGULATION
	921 KAR 2:370
	921 KAR 2:500
205.210	921 KAR 2:016
	921 KAR 2:017
205.211	921 KAR 2:016
	921 KAR 2:017
	921 KAR 2:500
205.245	921 KAR 2:040
205.520	907 KAR 1:012
	907 KAR 3:215
	907 KAR 6:005
	907 KAR 1:715
205.560	907 KAR 3:215
205.637	907 KAR 1:015
205.510	907 KAR 1:019
	907 KAR 1:825
205.520	907 KAR 1:479
	907 KAR 3:215
205.560	907 KAR 1:019
	907 KAR 3:215
205.565	907 KAR 1:825
205.561	907 KAR 1:019
205.703	921 KAR 2:006
205.720	921 KAR 2:006
205.745	103 KAR 3:010
205.2001	921 KAR 2:016
205.2003	921 KAR 2:017
	921 KAR 2:370
	921 KAR 2:500
205.2005	921 KAR 2:006
205.5605	907 KAR 3:090
205.5606	907 KAR 3:090
205.5607	907 KAR 3:090
205.5631-205.5639	907 KAR 1:019
205.564	907 KAR 1:019
205.637	907 KAR 1:825
205.638	907 KAR 1:825
205.639	907 KAR 1:825
205.640	907 KAR 1:825
205.641	907 KAR 1:825
205.6316	907 KAR 1:019
205.8451	907 KAR 1:019
	907 KAR 3:090
205.8453	907 KAR 1:019
	907 KAR 1:677
205.8477	907 KAR 3:090
209A.020	502 KAR 12:010
209A.030	502 KAR 12:010
209.020	502 KAR 12:010
209.030	502 KAR 12:010
209.160	103 KAR 3:010
	103 KAR 3:050
210.005	908 KAR 2:230
210.010	908 KAR 2:230
210.040	908 KAR 2:230
210.370-485	908 KAR 2:230
210.710	908 KAR 3:050
210.720	908 KAR 3:050
210.730	908 KAR 3:050
211.090	902 KAR 2:060
	902 KAR 8:096
	902 KAR 8:100
211.170	902 KAR 8:040
	902 KAR 8:060
	902 KAR 8:070
	902 KAR 8:080
	902 KAR 8:090
	902 KAR 8:096
	902 KAR 8:100
	902 KAR 8:110
	902 KAR 8:120
	902 KAR 8:140
	902 KAR 8:170
211.175	902 KAR 8:060
	902 KAR 8:070
211.180	902 KAR 8:160
	902 KAR 8:170
	902 KAR 8:165
211.190	902 KAR 8:090
211.220	902 KAR 2:060
211.270	902 KAR 8:140
211.350-211.392	401 KAR 8:020
211.600	502 KAR 12:010
211.680-244.686	922 KAR 1:420
211.842-211-852	902 KAR 100:010
	902 KAR 100:021
	902 KAR 100:058
	902 KAR 100:070
	902 KAR 100:072
	902 KAR 100:165
211.990	902 KAR 100:010
	902 KAR 100:021
	902 KAR 100:058
	902 KAR 100:070
	902 KAR 100:165
211.1751	902 KAR 8:060
	902 KAR 8:070
	902 KAR 8:090
	902 KAR 8:096
	902 KAR 8:100
	902 KAR 8:160
211.1752	902 KAR 8:060
212.040	902 KAR 8:080
212.170	902 KAR 8:040
	902 KAR 8:060
	902 KAR 8:070
	902 KAR 8:090
	902 KAR 8:096
	902 KAR 8:100
	902 KAR 8:110
	902 KAR 8:120
212.230	902 KAR 8:160
	902 KAR 8:165
	902 KAR 8:170
212.240	902 KAR 8:160
	902 KAR 8:165
	902 KAR 8:170
212.245	902 KAR 8:160
	902 KAR 8:165
	902 KAR 8:170
212.350	902 KAR 8:090
212.640	902 KAR 8:090
212.782	902 KAR 8:090
212.850	902 KAR 8:080
212.870	902 KAR 8:040
	902 KAR 8:060
	902 KAR 8:080
	902 KAR 8:090
	902 KAR 8:096
	902 KAR 8:100
	902 KAR 8:110
	902 KAR 8:120
212.890	902 KAR 8:160
	902 KAR 8:165
	902 KAR 8:170
214.032-214.036	902 KAR 2:060
214.610	201 KAR 2:015
214.615	201 KAR 8:532
	201 KAR 8:562
	201 KAR 8:570
	201 KAR 8:571
	201 KAR 22:020
	201 KAR 20:070
	201 KAR 20:110
216B.010-216B.130	900 KAR 5:020
	900 KAR 6:030

KRS INDEX

KRS SECTION	REGULATION
	902 KAR 20:320
	902 KAR 20:330
216B.010-216B.131	902 KAR 20:410
216B.450-216B.459	902 KAR 20:320
	902 KAR 20:330
216B.010	900 KAR 6:060
	900 KAR 6:125
216B.015	502 KAR 12:010
216B.040	900 KAR 6:125
216B.050	107 KAR 2:010
216B.062	900 KAR 6:060
216B.105	803 KAR 25:091
216B.400	107 KAR 2:010
	201 KAR 20:411
	502 KAR 12:010
216B.455	900 KAR 6:030
216B.990	502 KAR 12:010
	900 KAR 6:030
	900 KAR 6:060
	902 KAR 20:320
	902 KAR 20:330
	902 KAR 20:410
216.2920-216.2929	900 KAR 7:030
216-400	201 KAR 20:411
216.380	907 KAR 1:015
	907 KAR 1:825
217C.010-217C.990	902 KAR 50:110
217.005-217.205	902 KAR 45:005
217.015	301 KAR 1:155
	907 KAR 1:019
217.025	902 KAR 45:110
217.215	201 KAR 2:165
217.280-217.390	501 KAR 3:100
	501 KAR 13:010
217.822	907 KAR 1:019
222.211	10 KAR 7:011
223.160-223.220	401 KAR 8:020
224.01	401 KAR 42:005
	401 KAR 42:020
	401 KAR 42:060
	401 KAR 42:070
	401 KAR 42:080
	401 KAR 47:205
	401 KAR 47:206
	401 KAR 47:207
	401 KAR 48:207
	401 KAR 48:208
	500 KAR 20:010
	500 KAR 20:020
224.01-010	401 KAR 10:030
	401 KAR 47:207
	401 KAR 48:205
	401 KAR 51:001
	401 KAR 52:001
224.01-310	103 KAR 3:010
	103 KAR 3:020
	103 KAR 3:050
224.01-400	401 KAR 10:030
	401 KAR 42:250
224.01-405	401 KAR 42:250
224.10	401 KAR 42:005
	401 KAR 42:011
	401 KAR 42:020
	401 KAR 42:030
	401 KAR 42:040
	401 KAR 42:045
	401 KAR 42:050
	401 KAR 42:060
	401 KAR 42:070
	401 KAR 42:080
	401 KAR 42:090
	401 KAR 42:095
	401 KAR 42:315
	401 KAR 47:205
	401 KAR 48:206
	401 KAR 48:207
	401 KAR 48:208
	401 KAR 59:015
224.10-100	401 KAR 5:006
	401 KAR 8:020
	401 KAR 42:200
	401 KAR 48:205
224.10-105	401 KAR 48:205
224.10-110	401 KAR 8:020
	401 KAR 8:100
	401 KAR 52:001
224.10-150	401 KAR 48:205
224.10-410	401 KAR 42:320
224.10-420	401 KAR 42:316
224.10-440	401 KAR 42:316
224.10-470	401 KAR 42:320
224.16-050	401 KAR 8:020
	401 KAR 10:030
224.16-070	401 KAR 10:030
224.20-100	401 KAR 51:001
	401 KAR 51:052
	401 KAR 52:001
224.20-110	401 KAR 51:001
	401 KAR 52:001
	401 KAR 51:052
224.20-120	401 KAR 51:001
	401 KAR 52:001
	401 KAR 51:052
224.40	401 KAR 42:060
	401 KAR 42:070
	401 KAR 42:080
	401 KAR 47:205
	401 KAR 48:206
	401 KAR 47:207
	401 KAR 48:208
224.43	401 KAR 48:205
	401 KAR 47:207
	401 KAR 48:208
224.40-100	401 KAR 48:205
224.40-305	401 KAR 48:205
224.40-330	401 KAR 48:205
224.40-605	401 KAR 48:205
224.40-650	401 KAR 48:205
224.43	401 KAR 42:060
	401 KAR 42:070
	401 KAR 42:080
	401 KAR 47:207
224.43-310	401 KAR 49:080
224.43-315	401 KAR 49:080
224.43-345	401 KAR 49:080
224.43-505	401 KAR 49:080
224.46	401 KAR 42:060
	401 KAR 42:070
224.50	401 KAR 47:207
224.60	401 KAR 42:005
	401 KAR 42:011
	401 KAR 42:020
	401 KAR 42:030
	401 KAR 42:040
	401 KAR 42:045
	401 KAR 42:050
	401 KAR 42:070
	401 KAR 42:080
	401 KAR 42:090
	401 KAR 42:095
	401 KAR 42:200
	401 KAR 42:315
	401 KAR 42:320
224.60-105	401 KAR 42:320
224.60-110	401 KAR 42:340
224.60-120	401 KAR 42:250

KRS SECTION	REGULATION
	401 KAR 42:290
	401 KAR 42:300
224.60-130	401 KAR 42:250
	401 KAR 42:290
	401 KAR 42:300
	401 KAR 42:316
	401 KAR 42:320
	401 KAR 42:335
	401 KAR 42:340
224.60-135	401 KAR 42:250
224.60-140	401 KAR 42:250
	401 KAR 42:290
	401 KAR 42:300
	401 KAR 42:316
	401 KAR 42:320
	401 KAR 42:335
	401 KAR 42:340
224.60-150	401 KAR 42:250
	401 KAR 42:320
224.60	103 KAR 3:050
224.60-100	401 KAR 8:100
224.70-100	401 KAR 5:006
	401 KAR 48:205
224.70-110	401 KAR 5:006
	401 KAR 48:205
224.70-100-224.70-140	401 KAR 10:030
224.71-100-224.71-145	401 KAR 10:030
224.73-100-224.73-120	401 KAR 10:030
224.99	401 KAR 47:205
	401 KAR 47:206
	401 KAR 47:207
	401 KAR 48:207
	401 KAR 48:208
224.99-010	401 KAR 48:205
224.99-020	401 KAR 48:205
227A.010	815 KAR 35:060
227A.060	815 KAR 35:060
227A.100	815 KAR 35:060
	815 KAR 35:100
227.300	815 KAR 7:120
227.550	815 KAR 7:120
	815 KAR 7:125
227.700	815 KAR 10:070
227.702	815 KAR 10:070
227.704	815 KAR 10:070
227.708	815 KAR 10:070
227.710	815 KAR 10:070
227.750	815 KAR 10:070
227.782	815 KAR 10:070
230	810 KAR 1:001
	811 KAR 1:005
	811 KAR 2:010
230.210-230.375	810 KAR 1:011
	810 KAR 1:120
	811 KAR 1:125
	811 KAR 1:250
	811 KAR 2:060
	811 KAR 2:160
230.210	810 KAR 1:140
	811 KAR 1:280
	811 KAR 2:180
230.215	810 KAR 1:009
	810 KAR 1:012
	810 KAR 1:026
	810 KAR 1:027
	810 KAR 1:110
	810 KAR 1:130
	810 KAR 1:140
	810 KAR 1:220
	811 KAR 1:240
	811 KAR 1:260
	811 KAR 1:280
	811 KAR 2:150

KRS SECTION	REGULATION
	811 KAR 2:170
	811 KAR 2:180
	811 KAR 2:190
230.225	810 KAR 1:026
	811 KAR 2:190
230.230	810 KAR 1:110
	811 KAR 1:240
	811 KAR 2:150
230.240	810 KAR 1:027
	810 KAR 1:110
	810 KAR 1:130
	811 KAR 1:240
	811 KAR 2:150
	811 KAR 1:260
	811 KAR 2:170
230.260	810 KAR 1:026
	810 KAR 1:110
	810 KAR 1:130
	810 KAR 1:140
	811 KAR 1:220
	811 KAR 1:260
	811 KAR 1:280
	811 KAR 2:020
	811 KAR 2:140
	811 KAR 2:150
	811 KAR 2:170
	811 KAR 2:180
	811 KAR 2:260
230.265	810 KAR 1:130
	811 KAR 1:260
	811 KAR 2:170
230.280	811 KAR 1:220
	811 KAR 2:140
230.290	810 KAR 1:110
	810 KAR 1:130
	811 KAR 1:220
	811 KAR 1:240
	811 KAR 1:260
	811 KAR 2:020
	811 KAR 2:140
	811 KAR 2:150
	811 KAR 2:170
230.290	810 KAR 1:027
230.300	810 KAR 1:110
	811 KAR 1:220
	811 KAR 1:240
	811 KAR 2:140
230.310	810 KAR 1:027
	810 KAR 1:110
	811 KAR 1:220
	811 KAR 1:240
	811 KAR 2:020
	811 KAR 2:150
230.320	810 KAR 1:027
	810 KAR 1:110
	810 KAR 1:130
	811 KAR 1:240
	811 KAR 1:260
	811 KAR 2:020
	811 KAR 2:140
	811 KAR 2:150
	811 KAR 2:170
230.361	810 KAR 1:140
	811 KAR 1:280
	811 KAR 2:180
230.370	810 KAR 1:110
	810 KAR 1:240
	811 KAR 2:150
230.398	811 KAR 1:220
230.443	811 KAR 2:190
230.445	811 KAR 2:190
230.990	810 KAR 1:011
	810 KAR 1:120

KRS INDEX

KRS SECTION	REGULATION
	810 KAR 1:140
	811 KAR 1:120
	811 KAR 1:250
	811 KAR 2:060
	811 KAR 2:160
	811 KAR 2:180
234.321	103 KAR 3:010
	103 KAR 3:050
234.370	103 KAR 3:010
	103 KAR 3:050
237.110	301 KAR 2:172
243.710	103 KAR 3:010
243.710-243.884	103 KAR 3:050
243.730	103 KAR 3:010
243.850	103 KAR 3:010
243.884	103 KAR 3:010
243.0720	103 KAR 3:010
246.295	302 KAR 20:066
247.920	103 KAR 3:020
248.723	10 KAR 7:011
	500 KAR 20:010
	500 KAR 20:020
248.756	103 KAR 3:010
	103 KAR 3:050
251.451	302 KAR 34:020
251.720	302 KAR 34:020
256.295	302 KAR 20:020
257.020	302 KAR 21:005
257.030	302 KAR 20:020
	302 KAR 20:050
	302 KAR 20:115
	302 KAR 21:005
257.080	302 KAR 21:005
257.160	302 KAR 20:050
257.230	302 KAR 20:115
257.550	302 KAR 20:066
281.752	601 KAR 1:018
281.655	601 KAR 1:101
281.656	601 KAR 1:101
286.8-010	808 KAR 12:002
	808 KAR 12:021
286.8-020	808 KAR 12:066
286.8-030	808 KAR 12:021
286.8-032	808 KAR 12:021
	808 KAR 12:024
	808 KAR 12:076
286.8-034	808 KAR 12:021
286.8-036	808 KAR 12:024
286.8-060	808 KAR 12:021
	808 KAR 12:024
286.8-075	808 KAR 12:024
286.8-080	808 KAR 12:021
286.8-090	808 KAR 12:086
286.8-100	808 KAR 12:021
286.8-125	808 KAR 12:002
286.8-140	808 KAR 12:021
286.8-150	808 KAR 12:026
286.8-160	808 KAR 12:023
286.8-170	808 KAR 12:002
	808 KAR 12:022
	808 KAR 12:023
286.8-180	808 KAR 12:022
286.8-225	808 KAR 12:026
286.8-227	808 KAR 12:026
286.8-255	808 KAR 12:021
	808 KAR 12:086
286.8-260	808 KAR 12:021
286.8-265	808 KAR 12:086
	808 KAR 12:096
286.8-285	808 KAR 12:021
286.295	808 KAR 12:021
292	808 KAR 10:280
292.310	808 KAR 10:260
292.327	808 KAR 10:010
292.330	808 KAR 10:010
	808 KAR 10:030
292.331	808 KAR 10:010
	808 KAR 10:050
	808 KAR 10:260
	808 KAR 10:200
292.332	808 KAR 10:010
	808 KAR 10:490
292.333	808 KAR 10:010
292.334	808 KAR 10:010
292.336	808 KAR 10:200
	808 KAR 10:450
	808 KAR 10:480
292.337	808 KAR 10:260
	808 KAR 10:410
	808 KAR 10:440
	808 KAR 10:450
292.340	808 KAR 10:410
292.350	808 KAR 10:010
292.360	808 KAR 10:010
292.370	808 KAR 10:010
	808 KAR 10:410
292.380	808 KAR 10:010
292.410	808 KAR 10:010
	808 KAR 10:240
	808 KAR 10:410
292.430	808 KAR 10:010
292.500	808 KAR 10:260
299.530	103 KAR 3:010
	103 KAR 3:050
304.1050	806 KAR 17:545
	806 KAR 17:555
304.1-050	806 KAR 3:170
	806 KAR 9:070
	806 KAR 44:010
	806 KAR 46:040
	806 KAR 46:050
304.1-110	806 KAR 9:070
304.2-065	806 KAR 3:170
304.2-210-304.2-290	806 KAR 3:170
304.2-310	806 KAR 17:320
304.3	806 KAR 2:150
304.3-120	806 KAR 3:170
304.3-125	806 KAR 3:170
304.3-240	806 KAR 3:170
304.3-241	806 KAR 3:170
304.17A-820	806 KAR 3:170
304.32-210	806 KAR 3:170
304.35-040	806 KAR 3:170
304.36-140	806 KAR 3:170
304.37-010	806 KAR 3:170
304.37-020	806 KAR 3:170
304.3-270	103 KAR 15:180
304.4-010	806 KAR 9:001
	806 KAR 9:070
304.4-030	103 KAR 3:010
	103 KAR 3:050
304.4-105	806 KAR 9:001
304.9-020	806 KAR 9:060
	806 KAR 17:545
	806 KAR 17:320
304.9-030	806 KAR 9:070
	806 KAR 9:121
304.9-105	806 KAR 9:070
304.9-130	806 KAR 9:121
304.9-190	806 KAR 9:070
304.9-210	806 KAR 9:121
304.9-230	806 KAR 9:001
	806 KAR 9:070
304.9-260	806 KAR 9:220
304.9-295	806 KAR 9:220
304.9-320	806 KAR 9:070

KRS SECTION	REGULATION
304.9-330	806 KAR 9:070
304.9-390	806 KAR 9:060
	806 KAR 12:120
304.9-430	806 KAR 9:030
	806 KAR 9:060
	806 KAR 9:121
304.9-432	806 KAR 9:030
	806 KAR 9:060
304.9-485	806 KAR 9:121
304.9-505	806 KAR 9:070
304.11-050	103 KAR 3:010
304.10-120	806 KAR 2:150
304.11-050	103 KAR 3:050
304.12-010	806 KAR 12:120
	806 KAR 12:150
	806 KAR 12:170
304.12-020	806 KAR 12:150
	806 KAR 12:170
304.12-230	806 KAR 12:150
	806 KAR 12:170
304.13-011	806 KAR 46:050
304.13-051	806 KAR 46:050
304.13-120	806 KAR 13:120
304.13-167	806 KAR 13:120
304.13-400-304.13-420	806 KAR 13:120
304.14-120	806 KAR 15:090
	806 KAR 17:555
	806 KAR 46:050
304.14-430-304.14-450	806 KAR 17:555
304.14-642	806 KAR 9:220
304.15-075	806 KAR 15:090
304.15-700	806 KAR 9:070
	806 KAR 9:220
304.17-042	806 KAR 17:320
304.17A-005	806 KAR 17:545
304.17-070	806 KAR 17:320
304.17A-080	806 KAR 17:180
304.17A-140	806 KAR 17:320
304.17A-141-304A-143	806 KAR 17:460
304.17A-200	806 KAR 17:320
304.17A-230	806 KAR 17:320
304.17A-250	806 KAR 9:121
304.17A-095-304.17A-0954	806 KAR 17:555
304.17A-243	806 KAR 17:320
304.17A-245	806 KAR 17:320
304.17A-600-304.17A-633	806 KAR 17:460
304.17B-001-304.17B-022	806 KAR 17:320
304.18-110	806 KAR 17:320
304.040-075	201 KAR 8:532
	201 KAR 8:562
304.42-150	806 KAR 3:170
304.44-010	806 KAR 44:010
304.44-020	806 KAR 44:010
304.44-060	806 KAR 44:010
304.44-120	806 KAR 44:010
304.45-030	806 KAR 3:170
304.45-040	806 KAR 3:170
304.48-020	806 KAR 46:040
	806 KAR 46:050
304.48-050	806 KAR 46:040
304.48-070	806 KAR 46:040
304.48-110	806 KAR 3:170
304.48-170	806 KAR 46:040
	806 KAR 12:170
304.48-180	806 KAR 46:050
304.49-220	103 KAR 3:050
304.48-230	806 KAR 46:040
	806 KAR 12:170
304.49-080	806 KAR 3:170
304.49-090	806 KAR 3:170
304.49-220	103 KAR 3:010
304.50-075	806 KAR 3:170
304.99-020	806 KAR 12:120

KRS SECTION	REGULATION
309.133	201 KAR 34:020
309.1335	201 KAR 34:020
309.138	201 KAR 34:020
309.300	201 KAR 12:083
	201 KAR 39:010
309.301	201 KAR 12:083
	201 KAR 39:010
309.304	201 KAR 39:030
	201 KAR 39:050
	201 KAR 39:060
	201 KAR 39:080
	201 KAR 39:090
	201 KAR 39:100
	201 KAR 39:120
309.312	201 KAR 39:030
	201 KAR 39:040
	201 KAR 39:050
	201 KAR 39:070
	201 KAR 39:080
309.314	201 KAR 39:040
	201 KAR 39:0503
309.316	201 KAR 39:100
309.318	201 KAR 39:060
	201 KAR 39:100
	201 KAR 39:120
309.350	201 KAR 42:010
	201 KAR 42:020
309.352	201 KAR 42:080
309.355	201 KAR 42:010
	201 KAR 42:030
	201 KAR 42:050
	201 KAR 42:060
	201 KAR 42:080
	201 KAR 42:100
309.357	201 KAR 42:040
309.358	201 KAR 42:035
	201 KAR 42:070
	201 KAR 42:080
309.359	201 KAR 42:035
	201 KAR 42:070
309.361	201 KAR 42:040
	201 KAR 42:110
309.362	201 KAR 42:020
	201 KAR 42:050
	201 KAR 42:060
309.363	201 KAR 42:080
311A.170	201 KAR 20:400
311.597	201 KAR 9:006
313.010	201 KAR 8:532
313.021	201 KAR 8:008
313.030	201 KAR 8:532
	201 KAR 8:562
	201 KAR 8:571
313.035	201 KAR 8:532
	201 KAR 8:550
313.040	201 KAR 8:562
313.045	201 KAR 8:571
313.050	201 KAR 8:571
313.060	201 KAR 8:562
313.080	201 KAR 8:532
	201 KAR 8:562
	201 KAR 8:571
313.130	201 KAR 8:532
	201 KAR 8:562
	201 KAR 8:571
313.245	201 KAR 8:532
313.254	201 KAR 8:562
	201 KAR 8:581
314.011	201 KAR 20:056
	201 KAR 20:057
	201 KAR 20:059
	201 KAR 20:061
	201 KAR 20:062

KRS SECTION	REGULATION
	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:215
	201 KAR 20:220
	201 KAR 20:310
	201 KAR 20:400
	201 KAR 20:490
	502 KAR 12:010
314.021	201 KAR 20:400
314.031	201 KAR 20:110
	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:410
314.035	201 KAR 20:470
314.041	201 KAR 20:070
	201 KAR 20:110
	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
	201 KAR 20:370
314.042	201 KAR 20:056
	201 KAR 20:110
	201 KAR 20:057
	201 KAR 20:225
	201 KAR 20:240
	201 KAR 20:370
314.051	201 KAR 20:070
	201 KAR 20:110
	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
	201 KAR 20:370
314.071	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
	201 KAR 20:370
314.073	201 KAR 20:215
	201 KAR 20:220
	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
314.075	201 KAR 20:225
314.085	201 KAR 20:163
	201 KAR 20:225
	201 KAR 20:450
314.091	201 KAR 20:056
	201 KAR 20:110
	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:225
	201 KAR 20:370
	201 KAR 20:400
	201 KAR 20:450
314.103	201 KAR 20:110
314.107	201 KAR 20:161
314.111	201 KAR 20:062
314.131	201 KAR 20:220
314.137	201 KAR 20:470
314.142	107 KAR 2:010
	201 KAR 20:411
	201 KAR 20:240
	201 KAR 20:411
314.161	201 KAR 20:056
	201 KAR 20:162
	201 KAR 20:240
314.171	201 KAR 20:450
314.193	201 KAR 20:056
314.470	201 KAR 20:056
	201 KAR 20:070
	201 KAR 20:110
	201 KAR 20:161

KRS SECTION	REGULATION
	201 KAR 20:310
	201 KAR 20:411
	201 KAR 20:450
	907 KAR 1:715
314.991	201 KAR 20:110
	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:215
315.065	201 KAR 2:015
315.116	201 KAR 2:015
315.120	201 KAR 2:015
315.191	201 KAR 2:165
315.500	201 KAR 2:330
315.505	201 KAR 2:330
317A.050	201 KAR 12:083
317A.140	201 KAR 12:083
317B.025	201 KAR 12:083
318.010	815 KAR 2:020
	815 KAR 20:030
	815 KAR 20:070
318.015	815 KAR 2:020
318.020	815 KAR 20:320
318.040	815 KAR 20:320
318.050	815 KAR 20:320
318.054	815 KAR 20:320
	815 KAR 20:032
	815 KAR 20:034
318.070	815 KAR 20:070
318.130	815 KAR 2:020
	815 KAR 20:032
	815 KAR 20:034
318.150	815 KAR 2:020
	815 KAR 20:070
318.200	815 KAR 2:020
	815 KAR 20:070
319A.010	201 KAR 28:130
	201 KAR 28:170
319A.080	201 KAR 28:170
319A.170	201 KAR 28:170
319A.100	201 KAR 28:130
319A.010-319A.210	201 KAR 28:010
319C.060	201 KAR 43:030
	201 KAR 43:040
319C.080	201 KAR 43:010
	201 KAR 43:020
	201 KAR 43:030
	201 KAR 43:040
319.005	201 KAR 26:130
319.010	201 KAR 26:115
319.032	201 KAR 26:121
	201 KAR 26:171
	201 KAR 26:175
	201 KAR 26:180
	201 KAR 26:230
319.050	201 KAR 26:121
	201 KAR 26:125
	201 KAR 26:171
	201 KAR 26:175
	201 KAR 26:190
	201 KAR 26:200
	201 KAR 26:215
	201 KAR 26:230
	201 KAR 26:155
319.053	201 KAR 26:175
	201 KAR 26:190
	201 KAR 26:230
	201 KAR 26:270
	201 KAR 26:290
319.056	201 KAR 26:171
	201 KAR 26:190
	201 KAR 26:270
319.064	201 KAR 26:171
	201 KAR 26:175

KRS INDEX

KRS SECTION	REGULATION
	201 KAR 26:190
	201 KAR 26:230
319.071	201 KAR 26:175
319.082	201 KAR 26:130
	201 KAR 26:171
319.092	201 KAR 26:171
319.118	201 KAR 26:130
	201 KAR 26:171
319.140	201 KAR 26:310
319.990	201 KAR 26:130
322	401 KAR 42:020
	401 KAR 42:080
322A	401 KAR 42:020
	401 KAR 42:080
322.010	401 KAR 48:206
	401 KAR 48:207
	401 KAR 48:208
322.290	201 KAR 18:150
323A.060	201 KAR 10:050
323A.070	201 KAR 10:050
323A.100	201 KAR 10:050
324A.020	201 KAR 30:070
324A.035	40 KAR 2:350
	201 KAR 30:050
	201 KAR 30:125
	201 KAR 30:150
	201 KAR 30:190
324A.040	201 KAR 30:050
	201 KAR 30:190
324A.045	201 KAR 30:125
324A.050	40 KAR 2:350
	201 KAR 30:070
324A.052	201 KAR 30:070
325.330	201 KAR 1:065
	201 KAR 1:140
325.370	201 KAR 1:140
327.040	201 KAR 22:053
327.050	201 KAR 22:020
	201 KAR 22:070
327.060	201 KAR 22:020
	201 KAR 22:070
327.070	201 KAR 22:020
	201 KAR 22:053
327.080	201 KAR 22:020
329A.070	201 KAR 41:100
330.070	201 KAR 3:081
	201 KAR 3:090
330.110	201 KAR 3:045
330.192	201 KAR 3:090
330.220	201 KAR 3:081
334A.160	201 KAR 17:030
334A.170	201 KAR 17:030
335B.010	105 KAR 1:370
335B.020	105 KAR 1:370
334.030	101 KAR 2:102
334.150	201 KAR 7:075
335.010-335.160	201 KAR 23:050
335.080	201 KAR 23:020
	201 KAR 23:070
335.090	201 KAR 23:020
335.100	201 KAR 23:020
	201 KAR 23:070
335.130	201 KAR 23:020
	201 KAR 23:075
335.500	201 KAR 36.060
335.505	201 KAR 36.060
335.525	201 KAR 36.060
	201 KAR 36.070
335.527	201 KAR 36.070
335.990	201 KAR 23:050
337	902 KAR 8:040
	902 KAR 8:120
338	803 KAR 2:306
	803 KAR 2:318
	803 KAR 2:413
	803 KAR 2:419
	803 KAR 2:423
338.015	803 KAR 2:320
	803 KAR 2:412
	803 KAR 2:500
338.031	803 KAR 2:320
	803 KAR 2:412
338.051	803 KAR 2:316
	803 KAR 2:318
	803 KAR 2:411
	803 KAR 2:412
	803 KAR 2:414
	803 KAR 2:418
	803 KAR 2:423
	803 KAR 2:430
	803 KAR 2:419
338.061	803 KAR 2:316
	803 KAR 2:318
	803 KAR 2:411
	803 KAR 2:414
	803 KAR 2:418
	803 KAR 2:421
	803 KAR 2:430
339.015	803 KAR 2:300
	803 KAR 2:316
341.020	103 KAR 18:070
341.090	103 KAR 18:070
341.095	103 KAR 18:070
341.190	787 KAR 2:020
341.270	787 KAR 1:210
341.272	787 KAR 1:210
341.350	787 KAR 1:090
341.360	787 KAR 1:090
341.370	787 KAR 1:070
	787 KAR 1:090
341.380	787 KAR 1:090
341.395	787 KAR 1:320
341.530	787 KAR 1:070
342	105 KAR 1:370
342.0011	803 KAR 25:089
342.019	803 KAR 25:089
342.020	803 KAR 25:089
	803 KAR 25:091
342.035	803 KAR 25:089
	803 KAR 25:091
	803 KAR 25:091
344.030	105 KAR 1:370
344.040	105 KAR 1:370
346	107 KAR 2:010
	502 KAR 12:010
351.010	805 KAR 8:060
351.025	805 KAR 8:060
351.070	803 KAR 3:100
351.1041	805 KAR 8:060
351.102	805 KAR 7:020
351.105	805 KAR 7:020
351.175	103 KAR 3:010
	103 KAR 3:050
	805 KAR 8:060
351.194	805 KAR 8:060
351.010-352.550	805 KAR 8:060
365.015	806 KAR 9:121
369.107	31 KAR 4:140
380.010	40 KAR 2:350
380.030	40 KAR 2:350
380.040	40 KAR 2:350
380.050	40 KAR 2:350
380.060	40 KAR 2:350
380.070	40 KAR 2:350
380.080	40 KAR 2:350
380.100	40 KAR 2:350

KRS INDEX

KRS SECTION	REGULATION
380.110	40 KAR 2:350
380.120	40 KAR 2:350
380.130	40 KAR 2:350
380.990	40 KAR 2:350
395.470	103 KAR 3:050
403.707	107 KAR 2:010
413.120	103 KAR 3:050
421.500-421.550	201 KAR 20:411
421.570	502 KAR 12:010
424	401 KAR 5:006
424.220	109 KAR 15:020
424.230	109 KAR 15:020
424.260	109 KAR 15:020
439.179	501 KAR 3:130
439.320	501 KAR 1:080
439.330	501 KAR 1:080
439.340	501 KAR 1:070
441	501 KAR 3:150
441.005	501 KAR 3:010
	501 KAR 3:130
	501 KAR 13:010
441.045	501 KAR 3:010
	501 KAR 3:040
	501 KAR 3:050
	501 KAR 3:060
	501 KAR 3:070
	501 KAR 3:090
	501 KAR 3:110
	501 KAR 3:120
	501 KAR 3:140
	501 KAR 3:160
	501 KAR 3:170
	501 KAR 7:010
	501 KAR 7:020
	501 KAR 7:030
	501 KAR 7:040
	501 KAR 7:050
	501 KAR 7:060
	501 KAR 7:070
	501 KAR 7:080
	501 KAR 7:090
	501 KAR 7:140
	501 KAR 7:150
	501 KAR 13:010
441.047	501 KAR 3:090
	501 KAR 3:140
441.055	501 KAR 3:010
	501 KAR 3:020
	501 KAR 3:030
	501 KAR 3:040
	501 KAR 3:050
	501 KAR 3:060
	501 KAR 3:070
	501 KAR 3:080
	501 KAR 3:090
	501 KAR 3:100
	501 KAR 3:110
	501 KAR 3:120
	501 KAR 3:140
	501 KAR 3:160
	501 KAR 3:170
	501 KAR 7:010
	501 KAR 7:040
	501 KAR 7:050
	501 KAR 7:060
	501 KAR 7:070
	501 KAR 7:080
	501 KAR 7:090
	501 KAR 7:100
	501 KAR 7:110
	501 KAR 7:120
	501 KAR 7:130
	501 KAR 7:140
	501 KAR 7:150
	501 KAR 13:010
441.064	501 KAR 3:050
	501 KAR 7:050
441.075	501 KAR 3:050
	501 KAR 7:050
441.115	501 KAR 3:040
	501 KAR 3:160
	501 KAR 7:150
441.125	501 KAR 3:130
	501 KAR 7:130
441.135	109 KAR 15:020
	501 KAR 3:030
	501 KAR 7:030
441.215	109 KAR 15:020
	501 KAR 3:030
441.235	109 KAR 15:020
	501 KAR 3:030
441.560	501 KAR 3:090
	501 KAR 7:090
	501 KAR 13:010
510	107 KAR 2:010
510.010-510.140	502 KAR 12:010
524.140	502 KAR 12:010
530.020	502 KAR 12:010
530.064	502 KAR 12:010
531.310	502 KAR 12:010
532.043	501 KAR 1:070
532.060	501 KAR 2:020
	501 KAR 1:070
532.100	501 KAR 2:020
	501 KAR 2:040
	501 KAR 2:050
	501 KAR 2:060
	501 KAR 3:130
	501 KAR 7:130
	501 KAR 13:010
533.010	501 KAR 2:070
533.025	501 KAR 2:070
600.020	502 KAR 12:010
	922 KAR 1:420
600.030	502 KAR 12:010
	922 KAR 1:420
605.115	907 KAR 1:715
620.040	922 KAR 1:420
620.050	922 KAR 1:420
686.350	109 KAR 15:020
686.360	109 KAR 15:020
91A.040	109 KAR 15:020
7 C.F.R.	921 KAR 3:010
	921 KAR 3:025
	921 KAR 3:030
	921 KAR 3:035
9 C.F.R.	302 KAR 20:065
10 C.F.R.	902 KAR 100:010
	902 KAR 100:021
	902 KAR 100:058
	902 KAR 100:070
	902 KAR 100:165
12 C.F.R.	40 KAR 2:350
21 C.F.R.	907 KAR 1:677
23 C.F.R	601 KAR 1:018
26 C.F.R.	102 KAR 1:225
	102 KAR 1:230
29 C.F.R.	105 KAR 1:370
	803 KAR 2:300
	803 KAR 2:306
	803 KAR 2:308
	803 KAR 2:316
	803 KAR 2:318
	803 KAR 2:320
	803 KAR 2:412
	803 KAR 2:413

KRS INDEX

KRS SECTION	REGULATION
	803 KAR 2:414
	803 KAR 2:415
	803 KAR 2:418
	803 KAR 2:425
	803 KAR 2:500
	803 KAR 5:505
	803 KAR 2:550
	902 KAR 8:040
	902 KAR 8:120
34 C.F.R.	11 KAR 3:100
	11 KAR 4:080
	781 KAR 1:040
	902 KAR 30:110
	902 KAR 30:120
	902 KAR 30:130
	907 KAR 1:715
39 C.F.R.	902 KAR 100:070
	902 KAR 30:200
40 C.F.R.	401 KAR 8:020
	401 KAR 8:100
	401 KAR 42:005
	401 KAR 42:011
	401 KAR 42:020
	401 KAR 42:030
	401 KAR 42:040
	401 KAR 42:045
	401 KAR 42:050
	401 KAR 42:060
	401 KAR 42:070
	401 KAR 42:080
	401 KAR 42:090
	401 KAR 42:095
	401 KAR 42:300
	401 KAR 42:320
	401 KAR 51:001
	401 KAR 51:052
	401 KAR 52:001
42 C.F.R.	902 KAR 20:320
	907 KAR 1:014
	907 KAR 1:015
	907 KAR 1:019
	907 KAR 1:479
	907 KAR 1:677
	907 KAR 1:715
	907 KAR 1:825
	907 KAR 3:090
	907 KAR 3:100
45 C.F.R.	502 KAR 12:010
	907 KAR 1:479
	921 KAR 2:006
	921 KAR 2:016
	921 KAR 2:017
	921 KAR 2:370
	921 KAR 3:025
49 C.F.R.	201 KAR 40:040
	201 KAR 40:060
	601 KAR 1:018
	601 KAR 1:101
	601 KAR 1:201
	902 KAR 100:070
7 U.S.C.	808 KAR 10:200
	921 KAR 2:006
	921 KAR 3:010
	921 KAR 3:025
	921 KAR 3:035
8 U.S.C.	921 KAR 2:006
	921 KAR 2:016
	921 KAR 3:010
	921 KAR 3:025
10 U.S.C.	502 KAR 32:010
12 U.S.C.	40 KAR 2:350
	201 KAR 30:050
	201 KAR 30:125
	201 KAR 30:150
	201 KAR 30:190
18 U.S.C.	806 KAR 3:170
19 U.S.C.	921 KAR 3:025
20 U.S.C.	11 KAR 3:100
	11 KAR 4:080
	105 KAR 1:370
	902 KAR 30:001
	902 KAR 30:110
	902 KAR 30:120
	902 KAR 30:130
	902 KAR 30:141
	902 KAR 30:150
	902 KAR 30:160
	902 KAR 30:180
	902 KAR 30:200
	907 KAR 1:715
	921 KAR 2:016
21 U.S.C.	105 KAR 1:370
	921 KAR 2:006
22 U.S.C.	921 KAR 2:006
25 U.S.C.	921 KAR 2:016
	921 KAR 3:025
26 U.S.C.	4 KAR 1:010
	4 KAR 1:020
	4 KAR 1:030
	4 KAR 1:040
	102 KAR 1:225
	102 KAR 1:230
	102 KAR 1:245
	102 KAR 1:320
	103 KAR 18:070
	105 KAR 1:190
	105 KAR 1:320
	787 KAR 1:320
	806 KAR 12:120
	806 KAR 12:150
29 U.S.C.	101 KAR 2:102
	101 KAR 3:015
	781 KAR 1:040
	803 KAR 2:402
	803 KAR 2:411
	806 KAR 12:120
	806 KAR 12:150
	902 KAR 8:120
	921 KAR 2:016
	921 KAR 2:370
	921 KAR 3:025
30 U.S.C.	401 KAR 10:030
33 U.S.C.	401 KAR 5:006
38 U.S.C.	4 KAR 1:010
	102 KAR 1:225
	921 KAR 2:006
	921 KAR 2:016
	921 KAR 3:025
42 U.S.C.	11 KAR 3:100
	31 KAR 4:140
	31 KAR 5:010
	31 KAR 6:030
	201 KAR 8:540
	201 KAR 20:235
	401 KAR 42:005
	401 KAR 42:011
	401 KAR 42:020
	401 KAR 42:030
	401 KAR 42:040
	401 KAR 42:045
	401 KAR 42:050
	401 KAR 42:060
	401 KAR 42:070
	401 KAR 42:080
	401 KAR 42:090
	401 KAR 42:095

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	401 KAR 51:001		
	401 KAR 51:052		
	401 KAR 52:001		
	501 KAR 3:010		
	502 KAR 12:010		
	502 KAR 31:020		
	502 KAR 32:010		
	907 KAR 1:012		
	907 KAR 1:019		
	907 KAR 1:479		
	907 KAR 1:677		
	907 KAR 1:825		
	907 KAR 3:090		
	907 KAR 3:215		
	907 KAR 5:005		
	921 KAR 2:040		
	921 KAR 2:006		
	921 KAR 2:016		
	921 KAR 2:017		
	921 KAR 2:370		
	921 KAR 2:500		
	921 KAR 3:010		
	921 KAR 3:025		
	921 KAR 3:030		
45 U.S.C.	921 KAR 3:010		
49 U.S.C.	601 KAR 1:201		
2010 Ky Acts Ch 1	101 KAR 5:015		
2010 Ky. Acts Ch. 85	201 KAR 8:007		
	201 KAR 8:510		
	201 KAR 8:520		
	201 KAR 8:540		
	201 KAR 8:570		
	201 KAR 8:580		
2010 ES Ky. Acts Ch.1,	806 KAR 17:540		
	806 KAR 17:545		
	806 KAR 17:555		
2010 HB 1, 2010	702 KAR 7:130		
EO 2009-535	810 KAR 1:009		
	810 KAR 1:026		
	811 KAR 2:140		

TECHNICAL AMENDMENT INDEX

Regulation Number	Effective Date	Regulation Number	Effective Date

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the 2010 bound Volumes. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10) or 13A.312(2). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the Administrative Register. NOTE: Finalized copies of the technically amended administrative regulations are available for viewing on the Legislative Research Commission Web site at http://www.lrc.ky.gov/home.htm.

The Board of Nursing has requested that technical amendments be made to reflect the statutory change of the term "Advance Registered Nurse Practitioner" or "ARNP" to "Advance Practice Registered Nurse" or "APRN". This change was applied to 201 KAR 20:059, 201 KAR 20:161, 201 KAR 20:163, 201 KAR 20:215, 201 KAR 20:220, 201 KAR 20:235, 201 KAR 20:400, 201 KAR 20:410, 201 KAR 20:450, and 201 KAR 20:490, as of July 15, 2010.

401 KAR 50:015	5-20-10
401 KAR 50:045	5-20-10
401 KAR 50:065	5-20-10
900 KAR 2:050	10-10-10

AGRICULTURE, DEPARTMENT OF
Office of Consumer and Environmental Protection
Certification; 302 KAR 29:060
Commercial structural pest control and fumigation; 302 KAR 29:050
Definitions for 302 KAR Chapter 29; 302 KAR 29:010
Kentucky Grain Insurance and Grain Dealers
Bonding requirements; 302 KAR 34:020
Livestock
Animal diseases to be reported; 302 KAR 21:005
Livestock Sanitation
Carcasses; 302 KAR 20:050
Chronic wasting disease surveillance in farmed cervids; 302 KAR 20:066
General requirements for interstate and intrastate movements of animals; 302 KAR 20:020
Sale and exhibition of Kentucky origin animals in Kentucky; 302 KAR 20:065
Vesicular stomatitis; 302 KAR 20:115

AIR QUALITY, DIVISION OF
Attainment and Maintenance of the National Ambient Air Quality Standards
Definitions for 401 KAR Chapter 51; 401 KAR 51:001
Review of new sources in or impacting upon nonattainment areas; 401 KAR 51:052 & E
Permits, Registrations, and Prohibitory Rules
Definitions for 401 KAR 52:001; 401 KAR 52:001

ATTORNEY GENERAL, OFFICE OF
Consumer Protection Division
Debt adjusters; 40 KAR 2:350

AUCTIONEERS, BOARD OF
Recordkeeping and accounting; 201 KAR 3:045
Repeal of 3:15 and 3:080, 201 KAR 3:081
Administrative fees for applications and services; 201 KAR 3:090

BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES, DEPARTMENT FOR
Administration and Financial Management, Division of
Per diem rates; 908 KAR 3:050
Behavioral Health, Division of
Kentucky family peer support specialist; 908 KAR 2:230

COMMUNITY BASED SERVICES; DEPARTMENT FOR
Family Support, Division of
Procedures for determining initial and continuing eligibility; 921 KAR 2:040
Food Stamp Program
Application process; 921 KAR 3:030
Certification process; 921 KAR 3:035
Definitions; 921 KAR 3:010
Technical requirements; 921 KAR 3:025

JUSTICE AND PUBLIC SAFETY CABINET
Class D and Class C Felons
Definitions for 501 KAR Chapter 2; 501 KAR 2:020
Procedures for housing of Class D and Class C felons; 501 KAR 2:060
Transfer requests; 501 KAR 2:050
Waivers; 501 KAR 2:040
Work Release; 501 KAR 2:070
Jail standards for life safety facilities
Life safety issues; 501 KAR 13:010
Jail Standards for full service facilities
Administration; management; 501 KAR 3:020
Admission; searches and release; 501 KAR 3:120
Classification; 501 KAR 3:110
Classifications; 501 KAR 3:170
Definitions for 501 KAR Chapter 3; 501 KAR 3:010
Food services; 501 KAR 3:100
Fiscal management; 501 KAR 3:030
Hearings, procedures; disposition; 501 KAR 3:150
Medical services; 501 KAR 3:090
Personnel; 501 KAR 3:040
Physical plant; 501 KAR 3:050
Prison programs; services; 501 KAR 3:130
Prisoner rights; 501 KAR 3:140
Safety; emergency procedures; 501 KAR 3:070
Sanitation; hygiene; 501 KAR 3:080
Security; control; 501 KAR 3:060
Training; 501 KAR 3:160
Jail standards for restricted custody center facilities
Administration ; management; 501 KAR 7:020
Admission; searches and release; 501 KAR 7:120
Classification; 501 KAR 7:110
Definitions for 501 KAR Chapter 7; 501 KAR 7:010
Fiscal management; 501 KAR 7:030
Food services; 501 KAR 7:100
Medical services; 501 KAR 7:090
Personnel; 501 KAR 7:040
Physical plant; 501 KAR 7:050
Prisoner programs; services; 501 KAR 7:130
Prisoner rights; 501 KAR 7:140
Safety; emergency procedures; 501 KAR 7:070
Sanitation; hygiene; 501 KAR 7:080
Security; control; 501 KAR 7:060
Training; 501 KAR 7:150
Office of the Secretary
Corrections policies and procedures; 501 KAR 6:020
Frankfort Career Development Center; 501 KAR 6:090

CRIME VICTIMS COMPENSATION BOARD
Payment schedule for sexual assault; 107 KAR 2:010

DENTISTRY, BOARD OF
Board
Advisory opinions; 201 KAR 8:510
Anesthesia and sedation; 201 KAR 8:550
Charity dental practices; 201 KAR 8:581
Dental practices; 201 KAR 8:540
Fees and fines; 201 KAR 8:520
Licensure of dentists; 201 KAR 8:532
Licensure of dental hygienists; 201 KAR 8:562
Registration of dental assistants; 201 KAR 8:570
Registration of dental assistants; 201 KAR 8:571
Repeal of 201 KAR 8:006, 8:015, 8:070, 8:130, 8:135, 8:140, 8:150, 8:160, 8:170, 8:180, 8:185, 8:190, 8:220, 8:225, 8:230, 8:240, 8:250, 8:260, 8:265, 8:270, 8:277, 8:280, 8:290, 8:310, 8:320, 8:330, 8:340, 8:345, 8:350, 8:355, 8:400, 8:420, 8:430, 8:440, 8:450, 8:460, 8:70, and 8:490; 201 KAR 8:007E
Repeal of 201 KAR 8:390; 201 KAR 8:008E

ECONOMIC DEVELOPMENT; CABINET FOR
Kentucky Economic Development Finance Authority
Kentucky small business investment credit program; 307 KAR 1:060

EDUCATION, BOARD OF
Assessment and Accountability
Assistance to low-achieving school; 703 KAR 5:190
Next-generation learners; 703 KAR 5:200
Repeal of 703 KAR 5:170; 703 KAR 5:171
Education, Department of
Pupil Transportation
Vocational pupils, reimbursement for; 702 KAR 5:110
Office of Instruction
Required core academic standards; 704 KAR 3:303
Minimum requirements for high school graduation; 704 KAR 3:305
School Terms, Attendance and Operation
Approval of innovative alternative school calendars; 702 KAR 7:130
Designation of agent to manage high school interscholastic athletics; 702 KAR 7:065

Pupil attendance; 702 KAR 7:125

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education, Board of *(See Education, Board of)*
Libraries and Archives; Department for
Archives
Records retention schedules; authorized schedules; 725 KAR 1:061
Workforce Investment; Department of *(See Workforce Investment; Department of)*

EDUCATION PROFESSIONAL STANDARDS BOARD
Administrative Certificates
Examination prerequisites for principal certification; 16 KAR 6:030
Examination prerequisites for teacher certification; 16 KAR 6:010
Professional certificate for instructional leadership-school principal, all grades; 16 KAR 3:050
Standards for accreditation of educator preparation units and approval of programs; 16 KAR 5:010
Assessment
Written examination prerequisites for teacher certification; 16 KAR 6:010
Written examination prerequisites for occupation-based career and technical education teachers; 16 KAR 6:020
Teaching Certificates
Probationary certificate for teachers of engineering and technology; 16 KAR 2:150

ENVIRONMENTAL PROTECTION, DEPARTMENT FOR
Waste Management, Division of *(See Waste Management; Division of)*
Water, Division of *(See Water, Division of)*

ENERGY AND ENVIRONMENT CABINET
Air Quality, Division *(Air Quality, Division of)*
Environmental Protection; Department for *(See Environmental Protection; Department for; 401 KAR Chapter 49)*
Mine Safety and Licensing, Office of *(Mine Safety and Licensing; Office of)*
Natural Resources, Department for *(Natural Resources, Department for)*
Nature Preserves Commission
Management, use, and protection of nature preserves; 400 KAR 2:090

EXAMINERS OF PSYCHOLOGISTS, BOARD OF
Change of license status; 201 KAR 26:270
Complaint procedure; 201 KAR 26:130
Continuing education; 201 KAR 26:175
Definition of psychological testing; 201 KAR 26:115
Definitions of terms used by the Board of Examiners of Psychologists for meeting educational requirements for licensure as a licensed psychologist; 201 KAR 26:200
Examinations; 201 KAR 26:230
Health service provider designation; 201 KAR 26:125
Licensed psychological practitioner: application procedures; 201 KAR 26:290
Licensed psychologist: application procedures and temporary license; 201 KAR 26:155
Nonresident status; 201 KAR 26:215
Requirements for granting licensure as a psychologist to an applicant licensed in another state; 201 KAR 26:185
Requirements for granting licensure as a psychologist by reciprocity; 201 KAR 26:180
Requirements for supervised professional experience; 201 KAR 26:190
Requirement for supervision; 201 KAR 26:171
Scope of practice and dual credentialing; 201 KAR 26:121
Telehealth and telepsychology; 201 KAR 26:310

FINANCE AND ADMINISTRATION CABINET
Kentucky Judicial Form Retirement System
Judicial Branch
General Compliance with federal tax laws; 4 KAR 1:010
Limitation on benefits; 4 KAR 1:040
Minimum distribution; 4 KAR 1:020
Rollovers and transfers to other plans; 4 KAR 1:030
Kentucky Retirement Systems
General compliance with federal tax laws; 102 KAR 1:225
Investment policies; 102 KAR 1:175
Investment policies for insurance trust fund; 102 KAR 1:178
Kentucky retirement systems and personnel; 105 KAR 1:370
Limitations on benefits; 102 KAR 1:230
Qualified domestic relations orders; 105 KAR 1:190
Rollovers and transfers of contributions to other plans; 102 KAR 1:245
Kentucky Teachers' Retirement System
Qualified domestic relations orders; 102 KAR 1:320
Travel and administrative expenses; 102 KAR 1:330
Pharmacy, Board of *(See Pharmacy, Board of)*
Purchasing
Kentucky resident reciprocal preference; 200 KAR 5:400
Preferences for purchases of commodities or services; 200 KAR 5:410
Revenue, Department of *(See Revenue, Department of)*
Secretary, Office of
Kentucky resident bidder reciprocal preference; 200 KAR 5:400
Preference for purchases of commodities or services; 200 KAR 5:410

FINANCIAL INSTITUTIONS
Mortgage Loan Companies and Mortgage Loan Brokers
Change of address, name, control, or agent for service of process; 808 KAR 12:024
Fees, examination and investigation; 808 KAR 12:022
License and registration; 808 KAR 12:021
Procedures for distributing and using funds from the mortgage fraud prosecution fund; 808 KAR 12:026
Recordkeeping; 808 KAR 12:023
Repeal of 808 KAR 12:065; 808 KAR 12:066
Repeal of 808 KAR 12:075; 808 KAR 12:076
Repeal of 808 KAR 12:085; 808 KAR 12:086
Repeal of 808 KAR 12:095; 808 KAR 12:096
Securities
Application withdrawal; 808 KAR 10:050
Books and records of firms employing issuers agents; 808 KAR 10:480
Conducts of broker-dealers, agents, and employees; investment advisors and representatives; 808 KAR 10:030
Examination requirement for individuals advising the public on securities, broker-dealers, and agents; 808 KAR 10:260
Examples of dishonest or unethical practice for broker-dealers and agents; 808 KAR 10:440
Examples of dishonest or unethical practice for investment advisers and investment adviser representatives; 808 KAR 10:450
Forms for application, registration, notice filing, reporting and compliance; 808 KAR 10:010
Investment advisors' minimum liquid capitalization; bond; 808 KAR 10:200
Life settlement investments; 808 KAR 10:410
Procedures for distributing and using funds from the Securities Fraud Prosecution and Prevention Fund; 808 KAR 10:490
Qualifications, eligibility, and restrictions on the use of Form U-7, Small Corporate Offering Registration; 808 KAR 10:280
Registration exemption - sale of business; 808 KAR 10:240

FISH AND WILDLIFE RESOURCES, DEPARTMENT OF
Fish
Asian carp harvest program; 301 KAR 1:152
Commercial boat docks, concession stands, and boat rental facilities; 301 KAR 1:010
Commercial fishing requirements; 301 KAR 1:155
Recreational fishing limits; 301 KAR 1:201
Taking of fish by nontraditional fishing methods; 301 KAR 1:410
Game
Black beer; 301 KAR 2:300
Deer hunting on wildlife management areas, state parks, and other public lands; 301 KAR 2:178

Deer hunting seasons, zones, and requirements; 301 KAR 2:172
Dove, wood duck, teal, and other migratory game bird hunting; 301 KAR 2:225
Elk depression permits, landowner cooperator permits, and quota; 301 KAR 2:132
Hunting and trapping seasons and limits for furbearers; 301 KAR 2:251
Importation of cervid carcasses and parts; 301 KAR 2:095
Seasons, methods, and limits for small game; 301 KAR 2:122
Small game and furbearer hunting and trapping on public areas; 301 KAR 2:049
Waterfowl hunting requirements on public lands; 301 KAR 2:222
Waterfowl seasons and limits; 301 KAR 2:221
Hunting and Fishing
License, tag, and permit fees; 301 KAR 3:022
Public use of Otter Creek outdoor recreation area; 301 KAR 3:012
Special commission permits; 301 KAR 3:100
Wildlife
Swan Lake Unit of Boatwright Wildlife Management Area; 301 KAR 4:050

GENERAL GOVERNMENT CABINET
Accountancy, Board of
Individual license renewal and fee; 201 KAR 1:065
Procedures for the reinstatement and reissuance of a license; 201 KAR 1:140
Agriculture, Department of *(See Agriculture, Department of)*
Dentistry, Board of *(See Dentistry, Board of)*
Examiners and Registration of Landscape Architects, Board of
Fees; 201 KAR 10:050
Examiners of Psychologists, Board of *(Examiners of Psychologists, Board of; 201 KAR Chapter 26)*
Hairdressers and Cosmetologists, Board of
Board
Educational requirements; 201 KAR 12:083
Interpreters for the Deaf and Hard of Hearing, Board of
Application and qualifications for temporary licensure; 201 KAR 39:070
Applications; qualifications for licensure; and certification levels; 201 KAR 39:030
Code of ethics; 201 KAR 39:120
Complaint procedure; 201 KAR 39:010
Continuing education requirements; 201 KAR 39:090
Definitions; 201 KAR 39:010
Fees; 201 KAR 39:040
Reciprocity; 201 KAR 39:080
Renewal of licenses and extension of temporary licenses; 201 KAR 39:050
Reinstatement of license subject to disciplinary; 201 KAR 39:060
Kentucky Applied Behavior Analysts Licensing Board
Kentucky Veterans' Program Trust Fund
Military family assistance trust fund; 106 KAR 2:020
Licensed Professional Counselors; Board of
Qualifying experience under supervision; 201 KAR 36:060
Licensure for Occupational Therapy; Board of *(See Licensure for Occupational Therapy; Board of 201 Chapter 28)*
Licensure for Professional Art Therapists; Board of
Fees; 201 KAR 34:020
Licensure for Professional Engineers and Land Surveyors, Board of
Standards of practice; 201 KAR 18:150
Local Government; Depart for
County Budget Preparation and State Local Finance Officer Policy Manual; 109 KAR 15:020
Massage Therapy
Application process, exam, and curriculum; 201 KAR 42:035
Ethics, code of, and standards of practice; 201 KAR 42:060
Renewal and reinstatement procedures; 201 KAR 42:040
Military Affairs, Department of
Medical Licensure; Board of *(Medical Licensure; Board of)*
Repeal of 201 KAR 9:005; 201 KAR 9:006
Nursing, Board of *(See Nursing, Board of)*
Physical Therapy, Board of *(See Physical Therapy, Board of)*
Private Investigators, Board of (*See Private Investigators, Board of)*
Psychology (Board of Examiners of)
License status, change of; 201 KAR 26:270
Real Estate Appraisers Board
Continuing education for appraisers; 201 KAR 30:125
Education provider approval; 201 KAR 30:150
Educational requirements for certification; 201 KAR 30:190
Examination and experience; 201 KAR 30:050
Grievances; 201 KAR 30:070
Standards of practice; 201 KAR 30:040
Social Work; Board of *(See Social Work; Board of)*
Specialists in hearing instruments, Board of
Continuing education requirements; 201 KAR 7:075
Speech-language Pathology and Audiology; 201 KAR 17:030

HEALTH AND FAMILY SERVICES, CABINET FOR
Administration and Financial Management; Division of
Local health department accounting/auditing requirements; 902 KAR 8:165
Local health department financial management requirements; 902 KAR 8:170
Local health department operations requirements; 902 KAR 8:160
Behavioral Health, Developmental and Intellectual Disabilities, Department for *(Behavioral Health, Developmental and Intellectual Disabilities, Department for)*
Certificate of Need
Certificate of need annual surveys, and registration requirements for new magnetic resonance imaging units; 900 KAR 6:125
Certificate of need expenditure minimums; 900 KAR 6:030
Community Alternatives, Department for *(See Medicaid, Department for)*
Community Based Services, Department for *(See Community Based Services, Department for)*
Health care, Division of
Level I and Level II psychiatric residential treatment facility operation and services; 902 KAR 20:320
Psychiatric residential treatment facilities; 902 KAR 20:330
Family Support, Division of
Kentucky Works supportive services; 921 KAR 2:017
Family alternatives diversion (FAD); 921 KAR 2:500
Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP); 921 KAR 2:016
Technical requirements for Kentucky Works; 921 KAR 2:370
Technical requirements for the Kentucky Transitional Assistance Program (K-TAP); 921 KAR 2:006
Medicaid Services, Department for *(See Medicaid, Department for)*
Office of Health Policy
Data reporting by health care providers; 900 KAR 7:030
Program Integrity, Division of *(See Medicaid, Department for)*
Public Health, Department for *(See Public Health, Department for)*
State health Plan
State health plan for facilities and services; 900 KAR 5:020

HEATING, VENTILATION AND AIR CONDITIONING, DIVISION OF *(See Housing, Buildings and Construction, Department of)*

HORSE RACING COMMISSION
Harness Racing
Calculation of payouts and distribution of pools; 811 KAR 1:280
Exotic wagering; 811 KAR 1:250
Out of competition testing; 811 KAR 1:240
Post-race sampling and testing procedures; 811 KAR 1:260
Quarter Horse, Appaloosa, and Arabian Racing
Calculation of payouts and distribution of pools; 811 KAR 2:180
Exotic wagering; 811 KAR 2:160
Kentucky Quarter Horse, Appaloosa and Arabian Development Fund; 811 KAR 2:190
Licensing of racing association; 811 KAR 2:140
Out of competition testing; 811 KAR 2:150
Post-race sampling and testing procedures; 811 KAR 2:170
Thoroughbred Racing
Exotic wagering; 810 KAR 1:120

Jockeys and apprentices; 810 KAR 1:009
Licensing; 810 KAR 1:025
Out of competition; 810 KAR 1:110
Post-race sampling and testing procedures; 810 KAR 1:130

HOUSING, BUILDINGS AND CONSTRUCTION
Building Code Enforcement; Division of
Electrical continuing education procedure; 815 KAR 35:100
Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060; 815 KAR 35:060
Electrical continuing education procedure; 815 KAR 35:100
Fire Prevention, Division of
Consumer fireworks retailer registration and fees; 815 KAR 10:070
Heating, Ventilation and air conditioning, Division of
Heating, Ventilation, and Air Conditioning Licensing Requirements
Continuing education requirements for heating, ventilation, and air conditioning (HVAC) license holders; 815 KAR 8:050
Criteria for local jurisdiction HVAC programs; 815 KAR 8:100
Reciprocal licensing requirements; 815 KAR 8:035
Kentucky Building Code
Criteria for expanded local jurisdiction; 815 KAR 7:110
Kentucky building code; 815 KAR 7:120
Kentucky residential code; 815 KAR 7:125
Plumbing, Division of *(See Plumbing, Division of)*

INSURANCE, DEPARTMENT OF
Administration
Collection fee; 806 KAR 2:150
Agent, Consultants, Solicitors and Adjusters
Adjusters, apprentice adjusters; licenses, restrictions; 806 KAR 9:030
Continuing education; 806 KAR 9:220
Examinations, 806 KAR 9:070
Identification cards, 806 KAR 9:060
Prelicensing courses of study; instructors; 806 KAR 9:001
Repeal of 806 KAR 9:120, 806 KAR 9:130, 806 KAR 9:250 and 806 KAR 9:280; 806 KAR 9:121
Authorization of Insurers and General Requirements
Annual audited financial reports; 806 KAR 3:170
Suitability in annuity transactions; 806 KAR 12:120
Health and Life Division
Annuity disclosures; 806 KAR 12:150
Life insurance disclosures; 806 KAR 12:170
Repeal of 806 KAR 46:010; 806 KAR 46:011
Health Insurance Contracts
ICARE Program employer eligibility, application process, and requirements; 806 KAR 17:545
ICARE Program high-cost conditions; 806 KAR 17:540
ICARE Program requirements; 806 KAR 17:555
Kentucky access requirements; 806 KAR 17:320
Requirements for autism benefits for children; 806 KAR 17:460
Standard health benefit plan; 806 KAR 17:180
Life insurance and annuity contracts
Notice of rights as an owner of a life insurance policy; 806 KAR 15:090
Mine subsidence Insurance
Notification of qualified locations; 806 KAR 44:010
Property and Casualty, Division of
Forms for application and financial statements; 806 KAR 46:040
Liability self-insurance group rate, underwriting and evidence of coverage filings; 806 KAR 46:050
Rates and Rating Organizations
Workers' compensation deductible policies; 806 KAR 13:120

JUDICIAL BRANCH
Retirement
Benefit limitations; 4 KAR 1:040
Distribution minimum; 4 KAR 1:020
Federal tax laws; 4 KAR 1:010
Rollovers and transfers; 4 KAR 1:030

JUSTICE AND PUBLIC SAFETY CABINET
Breath Analysis Operators
Certification of breath alcohol analysis instrument operators; 500 KAR 8:010
Correction, Department of (See Correction, Department of)
Parole Board
Conducting sex offender postincarceration supervision revocation hearings; 501 KAR 1:070
Department of Juvenile Justice Policies and Procedures: juvenile services in community; 505 KAR 1:130
Determining parole eligibility; 501 KAR 1:030
Parole board policies and procedures; 501 KAR 1:080
Drug Control Policy; Office of
Repeal of 10 KAR 7:010, 10 KAR 7:020; 10 KAR 7:011
Kentucky agency for substance abuse policy on-going funding for local boards and reporting requirements; 500 KAR 20:020
Kentucky agency for substance abuse policy (KY-ASAP) start-up funding for local boards; 500 KAR 20:010
Kentucky Law Enforcement Council
Career Development Program; 503 KAR 1:170
Department of Criminal Justice Training basic training: graduation requirements; records; 503 KAR 1:110
Kentucky State Police, Department of *(See Kentucky State Police, Department of)*
Forensic Laboratory
Centralized database for DNA identification records; 502 KAR 32:010
Sex offender registration system; 502 KAR 31:020
Office of the Secretary
Filing and processing SLEO commissions; 500 KAR 2:020
Special Local Peace Officers
Filing and processing SLPO commissions; 500 KAR 3:020

Kentucky Applied Behavior Analysts Licensing Board
Code of ethical standards and standards of practice; 201 KAR 43:040
Fees; 201 KAR 43:030
Licensed behavior analyst or licensed assistant behavior analyst: application procedures; 201 KAR 43:010
Temporary licensed behavior analyst or temporary licensed assistant behavior analyst: application procedures; 201 KAR 43:020

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Coal County Scholarship Program
Coal County Scholarship Program for pharmacy students; 11 KAR 19:010
Deferment of repayment of Coal County Scholarships for pharmacy students; 11 KAR 19:030
Service cancellation and repayment of coal county pharmacy; 11 KAR 19:020
Kentucky Higher Education Assistance Authority
Student and Administrative Services; Division of
KHEAA Grant Programs
CAP grant award determination procedure; 11 KAR 5:145
Kentucky Higher Education Assistance Authority
Student aid applications; 11 KAR 4:080
Kentucky Loan Program
Administrative wage garnishment; 11 KAR 3:100

KENTUCKY HORSE RACING COMMISSION
Harness
Definitions; 811 KAR 1:005
Harness racing at county fairs; 811 KAR 1:220
Exotic wagering; 811 KAR 1:250
Out-of-competition testing; 811 KAR 1:240
Pari-mutuel wagering rules; 811 KAR 1:125
Postrace sampling and testing procedures; 811 KAR 1:260
Quarter Horse, Appaloosa and Arabian Racing
Definitions; 811 KAR 2:020
Exotic wagering; 811 KAR 2:160
Licensing of racing associations; 811 KAR 2:140
Licensing quarter horse, appaloosa or Arabian racing; 811 KAR 2:020
Out-of-competition testing; 811 KAR 2:150
Pari-mutuel wagering; 811 KAR 2:060
Postrace sampling and testing procedures; 811 KAR 2:170

Thoroughbred Racing
Calculation of payouts and distribution of pools; 810 KAR 1:140
Definition; 810 KAR 1:001
Entries, subscriptions, and declarations; 810 KAR 1:027
Exotic wagering; 810 KAR 1:120
Horses; 810 KAR 1:012
Jockeys and apprentices; 810 KAR 1:009
Out-of-completion testing; 810 KAR 1:110
Pari-mutuel wagering; 810 KAR 1:011
Postrace sampling and testing procedures; 810 KAR 1:130
Racing associations; 810 KAR 1:026

KENTUCKY STATE BOARD OF ELECTIONS
Forms and Procedures
Electronic submission of the Federal Post Card Application and delivery of the absentee ballot for military, their dependents, and overseas citizens; 31 KAR 4:140
Facsimile transmission of the Federal Post Card Application and delivery of the absentee ballot for military, their dependents, and overseas citizens; 31 KAR 4:130
Help America Vote Act 2002
Uniform definition of a vote; 31 KAR 6:030
Voting
Use of the federal write-in absentee ballot in elections for federal office; 31 KAR 5:010

KENTUCKY STATE POLICE, DEPARTMENT OF
Medical Examiner Protocols
Sexual assault forensic-medical examination protocol; 502 KAR 12:010

LABOR CABINET
Occupational Safety and Health *(See Occupational Safety and Health)*
Workplace standards; Department of *(See Workplace standards; Department)*

LICENSURE FOR OCCUPATIONAL THERAPY; BOARD OF
Deep Physical agent modalities; 201 KAR 28:170

MASSAGE THERAPY, BOARD OF LICENSURE FOR
Board
Application process, exam, and curriculum requirements; 201 KAR 42:035
Code of ethics, and standards of practice for massage therapists; 201 KAR 42:060
Complaints procedure and disciplinary therapy; 201 KAR 42:050
Continuing education requirements; 201 KAR 42:110
Endorsement; 201 KAR 42:070
Fees; 201 KAR 42:020
Goals for massage therapy sessions; 201 KAR 42:010
Licensee's change of name, home address, or place of business; 201 KAR 42:030
Programs of massage therapy instruction; 201 KAR 42:080
Renewal; 201 KAR 42:040

MEDICAID SERVICES, DEPARTMENT FOR
Medicaid Services, Department for
Healthcare Facilities Management, Division of
Diagnosis-related group (DRG) inpatient hospital reimbursement; 907 KAR 1:825
Durable medical equipment covered benefits and reimbursement; 907 KAR 1:479
Inpatient hospital service coverage; 907 KAR 1:012
Medicaid recipient lock-in program; 907 KAR 1:677
Outpatient hospital services; 907 KAR 1:014
Outpatient pharmacy program; 907 KAR 1:019
Payments for outpatient hospital services; 907 KAR 1:015
School-based health services; 907 KAR 1:715
Community Alternatives, Division of
Payments and Services
Acquired brain injury waiver services; 907 KAR 3:090
Reimbursement for acquired brain injury waiver services; 907 KAR 3:100
Tobacco cessation coverage and reimbursement; 907 KAR 3:215
Program Integrity, Division of
Health insurance premium payment (HIPP) program; 907 KAR 5:005
Information Systems, Division of
Electronic health record incentive payments; 907 KAR 6:005

MEDICAL LICENSURE, BOARD OF
Repeal of 201 KAR 9:005; 201 KAR 9:006

MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF
Mental Health
Family peer support specialist; 908 KAR 2:230

MINE SAFETY AND LICENSING, OFFICE OF
Mining safety standards
Equipment use and operation; 805 KAR 3:100
Miner Training, Education and Certification
Training and certification of inexperienced miners; 805 KAR 7:020
Sanctions and Penalties
Criteria for the imposition and enforcement of sanctions against licensed premises; 805 KAR 8:060

NATURAL RESOURCES, DEPARTMENT FOR
Mine Safety and Licensing, Office of *(Mine Safety and Licensing; Office of)*

NURSING, BOARD OF
Advanced practice registered nurse controlled substances prescriptions; 201 KAR 20:059
Advanced practice registered nurse licensure, program requirements, recognition of a national certifying organization; 201 KAR 20:056
Alternative program; 201 KAR 20:450
Applications for licensure; 201 KAR 20:370
Continuing competency requirements; 201 KAR 20:215
Delegation of nursing tasks; 201 KAR 20:400
Dialysis technician credentialing requirements and training program standards; 201 KAR 20:470
Doctor of Nursing Practice (DNP) degree; 201 KAR 20:061
Expungement of records, 201 KAR 20:410
Faculty for prelicensure registered nurse and practical nurse programs; 201 KAR 20:310
Fees for applications and for services; 201 KAR 20:240
Investigation and disposition of complaints; 201 KAR 20:161
Licensure by endorsement, 201 KAR 20:110
Licensure by examination, 201 KAR 20:070
Licensed practical nurse intravenous therapy scope of practice; 201 KAR 20:490
Nursing continuing education provider approval; 201 KAR 20:220
Procedures for disciplinary hearings pursuant to KRS 314.091; 201 KAR 20:162
Reinstatement of licensure; 201 KAR 20:225
Renewal of licenses; 201 KAR 20:230
Scope and standards of practice of advanced practice registered nurses; 201 KAR 20:057
Sexual assault nurse examiner program standards and credential requirements, 201 KAR 20:411
Standards for approved evaluators; 201 KAR 20:163
Standards for advanced practice registered nurse (ARPN) programs of nursing; 201 KAR 20:062
The prevention of transmission of HIV and HBV by nurses; 201 KAR 20:235

OCCUPATIONAL SAFETY AND HEALTH
Appendix A to 29 C.F.R. Part 1926; 803 KAR 2:430
Cranes and derricks in construction; 803 KAR 2:505
Cranes and derricks used in demolition and underground construction; 803 KAR 2:550

OCCUPATIONAL THERAPY; BOARD OF

Board
Definitions and abbreviations; 201 KAR 28:010
Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders; 201 KAR 28:130

PERSONNEL CABINET
Personnel Cabinet, General
Furloughs; 101 KAR 5:015
Personnel Board
Probationary periods; 101 KAR 1:325
Personnel Cabinet, Classified
Classified leave administrative regulations; 101 KAR 2:102
Classified service administrative regulations; 101 KAR 2:095
Personnel Cabinet, Unclassified
Leave administrative regulations for the unclassified service; 101 KAR 3:015
Secretary, Office of
2010 Plan Year Handbook for the Public Employee Health Insurance Program; 101 KAR 2:210

PHARMACY, BOARD OF
Board
Continuing education; 201 KAR 2:015
Emergency pharmacy powers; 201 KAR 2:330
Transfer of prescription information; 201 KAR 2:165

PHYSICAL THERAPY, BOARD OF
Code of ethical standards and standards of practice for physical therapists and physical therapist assistants; 201 KAR 22:053
Eligibility and credentialing procedure; 201 KAR 22:020
Requirements for foreign-educated physical therapists; 201 KAR 22:070

PLUMBING, DIVISION OF
Home inspectors; Board of
Complaint procedure; 815 KAR 6:060
Home inspector prelicensing providers; 815 KAR 6:040
Plumbing
Continuing education requirements for plumbers; 815 KAR 20:032
Joint and connections; 815 KAR 20:100
License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of licenses; 815 KAR 20:030
Parts or materials list; 815 KAR 20:020
Plumbing fixtures; 815 KAR 20:070
Requirements for approval of continuing education courses and providers; 815 KAR 20:034

POSTSECONDARY EDUCATION, COUNCIL ON
Public Educational Institutions
Degree program approval; equal opportunity goals; 13 KAR 2:06031

PRIVATE INVESTIGATORS, BOARD FOR
Board
Verification of 240 hour employees; 201 KAR 41:100

PROPRIETARY EDUCATION, BOARD OF
Application for license for commercial driver license training school; 201 KAR 40:050
Application for renewal of license for commercial driver license training school; 201 KAR 40:060
Commercial driver license training school curriculum and refresher course; 201 KAR 40:040
Commercial driver license training school instructor and agent application and renewal procedures; 201 KAR 40:070
Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver training schools, and advertising and solicitation of students by commercial driver license training schools; 201 KAR 40:080
Standards for Kentucky resident commercial driver training school facilities; 201 KAR 40:100

PSYCHOLOGISTS, BOARD OF EXAMINERS OF
Telepath and telepsychology; 201 KAR 26:310

PUBLIC HEALTH, DEPARTMENT FOR
Administration and Financial; Division of
Appointment of health officer or a health department director of a local health department; 902 KAR 8:140
Classification and compensation plans for local health departments; 902 KAR 8:060
Definitions for 902 KAR Chapter 8; 902 KAR 8:040
Disciplinary appeal process applicable for local health department employees; 902 KAR 8:110
Disciplinary procedures applicable for local health department employees; 902 KAR 8:100
Initial appointment, probationary period, layoff, performance evaluation, and the resignations of employees of local health departments; 902 KAR 8:080
Leave provisions applicable to employees of local health departments; 902 KAR 8:120
Local health department employee performance evaluation program; 902 KAR 8:096
Promotion, transfer, and demotion of local health departments; 902 KAR 8:090
Recruitment, examination, and certification of eligibles for local health departments; 902 KAR 8:070
Salary adjustments for local health departments; 902 KAR 8:060
Adult and Child Health Improvement; Division of
First Steps
Assessment, service planning, and assistive technology; 902 KAR 30:130
Covered services; 902 KAR 30:160
Coverage and payment for services; 902 KAR 30:200
Definitions; 902 KAR 30:001
Evaluation and eligibility; 902 KAR 30:120
Personnel qualifications; 902 KAR 30:150
Point of entry and service coordination; 902 KAR 30:110
Procedural safeguards; 902 KAR 30:180
Repeal of 902 KAR 30:140 and 902 KAR 30:170; 902 KAR 30:141
Crime Victims Compensation Board
Payment schedule for sexual assault examination; 107 KAR 2:010
Epidemiology and Health Planning
Immunization schedules for attending day care centers, certified family child care homes, other licensed facilities which care for children, preschool programs, and public and private and secondary school; 902 KAR 2:060
Non-Depository Division of Financial Institutions
Change of address, name, control, or agent for service of process; 808 KAR 12:024
Claims of exemption; 808 KAR 12:020
Examination and investigation fees; 808 KAR 12:022
Definitions for 808 KAR Chapter 12; 808 KAR 12:002
Licensing and registration; 808 KAR 12:021
Procedures for distributing and using funds from the mortgage fraud prosecution fund; 808 KAR 12:026
Recordkeeping; 808 KAR 12:023
Repeal of 808 KAR 12:065; 808 KAR 12:066
Repeal of 808 KAR 12:075; 808 KAR 12:075
Repeal of 808 KAR 12:086; 808 KAR 12:085
Repeal of 808 KAR 12:095; 808 KAR 12:096
Public health protection and safety, Division of
Milk and Milk products
Grade A milk and milk products standards; 902 KAR 50:110
Radiology
Definitions for 902 KAR Chapter 100; 902 KAR 100:010
Disposal of radioactive material; 902 KAR 100:021
Notices, reports, and instructions to employees; 902 KAR 100:165
Specific licenses to manufacture, assemble, repair, or distribute products; 902 KAR 100:058
Transportation of radioactive material; 902 KAR 100:070
Use of radionuclides in the health arts; 902 KAR 100:072

PUBLIC PROTECTION CABINET
Financial Institutions; Department of *(See Financial Institutions; Department of)*
Housing, Buildings and Construction, Department *(See Housing, Buildings and Construction)*
Insurance, Department of *(See Insurance, Department of)*
Kentucky Horse Racing Commission *(See Kentucky Horse Racing Commission)*
Massage Therapy, Board of Licensure for *(See Massage Therapy, Board of Licensure for)*
Occupational Therapy; Board of *(See Occupational Therapy, Board of)*
Occupations and Professions, Office of
Private Investigators, Board for *(See Private Investigators, Board for)*
Proprietary Education, Board of *(See Proprietary Education, Board of)*

REVENUE, DEPARTMENT OF
Forms
General Administrative Forms Manual; 103 KAR 3:010
Miscellaneous Taxes Forms Manual; 103 KAR 3:050
Property and Severance Forums Manual; 103 KAR 3:030
Sales And Telecommunications Forms Manual; 103 KAR 3:020
Income Tax Forms Manual; 103 KAR 3:040
Income Tax; General Administration
Endow Kentucky Tax Credit, 103 KAR 15:195
Kentucky new markets development program tax credit; 103 KAR 15:180
Income Tax; Withholding
Supplemental wages and other payments subject to withholding; 103 KAR 18:070
Sales and Excise Taxes, Office of
Rebate for a governmental public facility; 103 KAR 31:102

SOCIAL WORK, BOARD OF
Continuing education; 201 KAR 23:075
Fees; 201 KAR 23:020
Renewal, Termination, reinstatement of license; 201 KAR 23:050
Qualifying education and qualifying experience under supervision; 201 KAR 23:070

STATE, DEPARTMENT OF
Kentucky Registry of Election Finance
Election finance statement forms; campaign contributions or expenditures in excess of $3,000; 32 KAR 1:030
Forms for gubernatorial slates of candidates and related filers; 32 KAR 1:190
Practice and Procedure
Monetary contributions made in a format other than cash, and refunds; 32 KAR 2:130

TEACHERS' RETIREMENT SYSTEM
General Rules
Qualified domestic relations orders; 102 KAR 1:320
Travel and administrative expenses; 102 KAR 1:330

TOURISM, ARTS AND HERITAGE CABINET
Office of the Secretary
Kentucky Film Industry Incentives Application and fees; 300 KAR 2:040
Parks; Department of *(See Parks; Department of)*
Fish and Wildlife Recourses, Kentucky Department of *(See Fish and Wildlife Resources, Kentucky Department of)*

TRANSPORTATION CABINET
Motor Carriers
Proof of liability and cargo insurance; 601 KAR 1:101
Special overweight or overdimensional permits; 601 KAR 1:018
Motorcycle and Bicycle Safety
Bicycle and bikeway program, 601 KAR 14:030
Motor Vehicle Tax
Continuation of title liens; 601 KAR 9:210
Registration of motor vehicle dealers and manufacturer; 601 KAR 9:015
Temporary registration plates; 601 KAR 9:140
Tilting of all-terrain vehicles; 601 KAR 9:205
Office of Audits
Road Fund Audits; Division of
Recordkeeping and audit requirements of taxes imposed in KRS 138.655 through 138.7291; 601 KAR 1:201
Right-of-way
Logo signs; placement along fully controlled and partially controlled access highways; 603 KAR 4:035
Secretary, Office of
Bicycle and bikeway program; 601 KAR 14:030

WASTE MANAGEMENT, DIVISION OF
Solid Waste Facilities
Contents of the application for petroleum contaminated soil treatment facilities; 401 KAR 47:205
Public information procedures for petroleum contaminated soil treatment facilities; 401 KAR 47:207
Standards for Solid Waste Facilities
Petroleum contaminated soil treatment facility liner geosynthetic quality assurance and quality control; 401 KAR 48:207
Petroleum contaminated soil treatment facility liner high-permeability layer quality assurance and quality control; 401 KAR 48:208
Petroleum contaminated soil treatment facility liner soil layer quality assurance and quality control; 401 KAR 48:206
Technical requirements for petroleum contaminated soil treatment facilities; 401 KAR 48:205
Solid Waste Planning
Solid waste grant funds and solid waste collector and recycler registration; 401 KAR 49:080
Underground storage tanks
Annual fee for underground storage tanks; 401 KAR42:200
Classification of UST systems containing petroleum and listing of associated cleanup level; 401 KAR 42:080
Definitions related to 401 KAR Chapter 42; 401 KAR 42:005
Delivery prohibition; 401 KAR 42:045
Financial audits; 401 KAR 42:335
Financial responsibility; 401 KAR 42:090
Hearings; 401 KAR 42:320
Laboratory certification; 401 KAR 42:340
Lender liability; 401 KAR 42:095
Out-of-service UST systems, temporary closure and permanent closure of UST systems, and change in service of UST systems; 401 KAR 42:070
Petroleum storage tank environmental assurance fund eligibility criteria for contracting companies and partnerships; 401 KAR 42:316
Petroleum storage tank environmental assurance fund reimbursement procedures; 401 KAR 42:250
Ranking system; 401 KAR 42:290
Repeal of 401 KAR 42:314; 401 KAR 42:315
Scope of underground storage tank program; 401 KAR 42:011
Small owners tank removal account; 401 KAR 42:330
Third-party claims; 401 KAR 42:300
UST systems: design, construction, installation, and registration; 401 KAR 42:020
UST system general operating requirements; 401 KAR 42:030
UST system release detection; 401 KAR 42:040
UST system release reporting, investigation, and confirmation; 401 KAR 42:050
UST system release response and corrective action for UST systems containing petroleum or hazardous substances; 401 KAR 42:060

WATER, DIVISION OF
Public Water Supply
Public and semipublic water systems; general provisions; 401 KAR 8:020
Water Quality
Wastewater planning requirements for regional planning agencies; 401 KAR 5:006
Water Quality Standards
Antidegradation policy implantation methodology; 401 KAR 10:030

WORKFORCE INVESTMENT, DEPARTMENT OF
Unemployment insurance
Employer contribution rates; 787 KAR 1:210
Priority of deductions from benefits; 787 KAR 1:320
Rehabilitation technology services; 781 KAR 1:040
Reasonable time for protesting claim; 787 KAR 1:070
Unemployed worker's reporting requirements; 787 KAR 1:090
Office of Employment and Training
Confidentially of records of the Office of Employment and Training; 787 KAR 2:020

WORKFORCE STANDARDS, DEPARTMENT OF
Occupational Safety and Health Compliance, Division of
Adoption of 29 C.F.R. 1926.1-29, 1926.4, and 1926.6; 803 KAR 2:400
Adoption of 29 C.F.R. Part 1926.850-860; 803 KAR 2:419
Adoption of 29 C.F.R. Part 1926.950-960; 803 KAR 2:421
Adoption of 29 C.F.R. Part 1926.1050-1060; 803 KAR 2:423
Appendix A to 29 C.F.R. Part 1926; 803 KAR 2:430
Cranes and Derricks in construction; 803 KAR 2:505
Cranes and Derricks used in demolition and underground construction; 803 KAR 2:550
Electrical; 803 KAR 2:318
Fall protection; 803 KAR 2:412
General; 803 KAR 2:300
General safety and health provisions; 803 KAR 2:402
Maritime employment; 803 KAR 2:500
Motor vehicles, mechanized equipment, and marine operations; 803 KAR 2:414
Occupational health and environmental controls; 803 KAR 2:306
Personal protective equipment; 803 KAR 2:308
Scaffolds; 803 KAR 2:411
Subpart N-Helicopters, hoists, elevators, and conveyors; 803 KAR 2:413
Steel erection; 803 KAR 2:417
Toxic and hazardous substances; 803 KAR 2:320
Toxic and hazardous substances; 803 KAR 2:425
Underground construction, caissons, cofferdams, and compressed air; 803 KAR 2:418
Welding, cutting, and brazing; 803 KAR 2:316
Department of Workers' Claims
Workers' compensation hospital fee schedule; 803 KAR 25:091
Workers' compensation medical fee schedule for physicians; 803 KAR 28:089