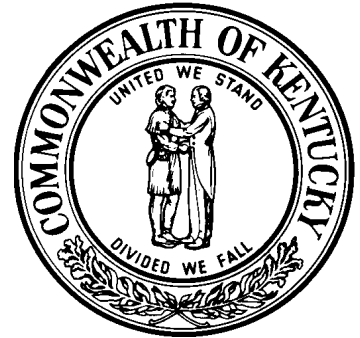


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 40, NUMBER 7
WEDNESDAY, JANUARY 1, 2014

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, December 13, 2013.

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MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet January 13, 2014 at 1:00 p.m. in room 154 Capitol Annex. See **tentative agenda** on pages **1389-1390** of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2014 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 40, Kentucky Register, page 318 (short form: 40 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)

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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.

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VOLUME 40, NUMBER 7 – JANUARY 1, 2014

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, JANUARY 13, 2014, at 1:00 p.m., Room 154 Capitol Annex**

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11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) Program.

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16 KAR 6:010. Examination prerequisites for teacher certification.

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105 KAR 1:140 & E. Employer's administrative duties. ("E" expires 12/28/2013) (Amended After Comments) (Deferred from November)

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- 201 KAR 20:056. Advanced practice registered nurse licensure, program requirements, recognition of a national certifying organization.
- 201 KAR 20:061. Approval of Doctor of Nursing Practice (DNP) degree programs.
- 201 KAR 20:062. Standards for advanced practice registered nurse (APRN) programs of nursing.
- 201 KAR 20:240. Fees for applications and for services.
- 201 KAR 20:260. Organization and administration standards for prelicensure programs of nursing.
- 201 KAR 20:270. Programs of nursing site visits.
- 201 KAR 20:280. Standards for initial approval of prelicensure registered nurse and practical nurse programs.
- 201 KAR 20:290. Standards for prelicensure registered nurse and practical nurse secondary sites.
- 201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.
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- 201 KAR 20:390. Nursing Incentive Scholarship Fund.

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Veterans' Program Trust Fund**

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- 301 KAR 2:222 & E. Waterfowl hunting requirements on public lands. ("E" expires 4/19/2014)

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- 302 KAR 21:001. Definitions for 302 KAR Chapter 21. (Not Amended After Comments)
- 302 KAR 21:020. General livestock and poultry provisions. (Not Amended After Comments)
- 302 KAR 21:030. Beef cattle, bison, and veal specific provisions. (Not Amended After Comments)
- 302 KAR 21:040. Dairy cattle specific provisions. (Not Amended After Comments)
- 302 KAR 21:050. Equine specific provisions. (Not Amended After Comments)
- 302 KAR 21:060. Swine specific provisions. (Not Amended After Comments)
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Organic Agricultural Product Certification

302 KAR 40:010. Certification of organic production, processing, or handling operations. (Deferred from December)

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

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
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702 KAR 7:125. Pupil attendance.

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704 KAR 3:305. Minimum requirements for high school graduation. (Amended After Comments)

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704 KAR 7:151. Repeal of 704 KAR 7:150. (Deferred from December)

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907 KAR 7:005. Certified waiver provider requirements. (Not Amended After Comments)

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921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. ("E" expires 5/13/2014)

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921 KAR 3:090 & E. Simplified assistance for the elderly program or "SAFE". ("E" expires 4/28/2014)

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922 KAR 1:330. Child protective services.

REMOVED FROM JANUARY 2014 AGENDA

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Department of Juvenile Justice

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505 KAR 1:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services. (Comments Received; SOC ext.)

505 KAR 1:170 & E. Department of Juvenile Justice Policies and Procedures: Prison Rape Elimination Act of 2003 (PREA). ("E" expires 5/15/2014) (Comments Received; SOC ext.)

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907 KAR 20:001 & E. Definitions for 907 KAR Chapter 20. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:005 & E. Medicaid technical eligibility requirements not related to a modified adjusted gross income standard or former foster care individuals. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:010 & E. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:015 & E. Medicaid right to apply and reapply for individuals whose Medicaid eligibility is not based on a modified adjusted gross income eligibility standard or who are not former foster care individuals. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:020 & E. Income Standards for Medicaid other than Modified Adjusted Gross Income (MAGI) standards or for former foster care individuals. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:025 & E. Resource standards for Medicaid. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:030 & E. Trust and transferred resource requirements for Medicaid. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:035 & E. Spousal impoverishment and nursing facility requirements for Medicaid. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:040 & E. Relative responsibility requirements for Medicaid. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:045 & E. Special income requirements for hospice and home and community based services. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:050 & E. Presumptive eligibility. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:060 & E. Medicaid adverse action and conditions for recipients. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:075 & E. Eligibility provisions and requirements regarding former foster care individuals. ("E" expires 5/1/2014) (Comments Received; SOC ext.)

907 KAR 20:100 & E. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards. ("E" expires 5/1/2014) (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.

VOLUME 40, NUMBER 7 – JANUARY 1, 2014
EMERGENCY ADMINISTRATIVE REGULATIONS

NONE

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

COUNCIL ON POSTSECONDARY EDUCATION
(As Amended at ARRS, December 10, 2013)

13 KAR 3:050. GED® eligibility requirements.

RELATES TO: KRS 158.135(1)(a), ~~151B.023, 151B.125, 158.6455, 164.0064(1)(a)~~

STATUTORY AUTHORITY: KRS 164.0064(1)(a), ~~164.0234, 151B.023, 151B.410, EO 2005-565~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~164.0234(1)~~ 151B.410(1) requires the Kentucky Adult Education Program [Department for Adult Education and Literacy] to promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout [through] the state. KRS 164.0064(1)(a) requires that a high school equivalency diploma be issued upon passage of the test given by the Kentucky Adult Education Program's approved testing centers in conformance with requirements of the GED® Testing Service [KRS ~~151B.023~~ requires the Department for Adult Education and Literacy to carry out the statewide mission on adult education. KRS ~~151B.125~~ recognizes the General Educational Development (GED) Tests for high school equivalency purposes in Kentucky. EO 2005-725 abolished the Department for Adult Education and Literacy and transferred its duties to the Council on Postsecondary Education]. ~~[KRS 158.6455 excludes students from a school's dropout rate if the student is enrolled in a district-operated or district-contracted alternative program leading to a certificate of completion of a GED® diploma (known as the secondary GED® program).]~~ This administrative regulation establishes the eligibility requirements for taking the GED® test [GED Tests].

Section 1. Eligibility Requirements. The GED® test [GED Tests] shall be administered to an applicant with a Kentucky address who:

(1) Has reached his or her nineteenth (19th) birthday; or
(2)(a) Has reached the legal age of withdrawal in the local school district where he or she resides; ~~[is at least sixteen (16) years of age] and~~

~~(b)1. Has officially withdrawn from public or private school for at least ninety (90) days as certified by the local school district;~~

~~2. [or~~

~~(3) Is at least sixteen (16) years of age with a Kentucky address, and] Is:—(a)] committed or placed in an adult [a state] correctional facility;~~

~~3. Is (b)] enrolled in the Jobs Corps Program of Instruction;~~

~~4.a. Is (c)] considered a state agency child, as defined by KRS 158.135(1)(a); and~~

~~b. Is approved for the GED® test by the local school superintendent upon recommendation from the applicant's service region administrator or designee [receives approval for the GED Tests from his or her interdisciplinary team];~~

~~5.a. Is (d)] detained in a juvenile detention center or juvenile holding facility; [;] and~~

~~b. [the applicant:~~

~~1. Is at least one (1) year behind academically from his graduating class;~~

~~2. Has a minimum stay in detention of thirty (30) days; and~~

~~3.] Is approved for the GED® test [GED Tests] by the local school superintendent; [;] or~~

~~6.a. Is (e)] enrolled in a Kentucky Department of Education approved Secondary GED® Program under 704 KAR 7:150; and~~

~~b. Is approved for the GED® test [GED Tests] by the local school superintendent.~~

Section 2. Superintendent Waiver. The local school

superintendent or designee in the district where the applicant currently resides ~~[was last enrolled]~~ may waive the ninety (90) day school withdrawal provision of Section 1(2)(b)1. of this administrative regulation if necessary due to a deadline for postsecondary enrollment, condition of employment, medical reason, [or] family crisis, or other extenuating circumstances.

Section 3. Test Readiness. An applicant shall successfully complete and pass an official readiness test with the same passing scores required to pass the GED® test prior to taking the GED® test. [(1) An applicant shall be certified as test-ready by an entity approved by Kentucky Adult Education.

~~(2) [(1)] Before taking the GED® test [official GED Tests], an applicant shall]:~~

~~(a)] successfully complete and pass an official readiness test with the same passing scores required to pass the GED® test [the Official GED Practice Test with the same passing scores required for the GED test or present a Kentucky Educational Television GED Connection Voucher; and~~

~~(b) Complete the Kentucky Adult Education GED Testing Application. This form shall be available from a county adult education provider, school district, or the Kentucky Adult Education.~~

~~(2) Military personnel shall:~~

~~(a) Not be required to complete the GED Test Application prior to taking the test; and~~

~~(b) Complete the Military GED Application (Form 300-M) before a high school equivalency diploma shall be issued.~~

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Kentucky Adult Education GED Testing Application, June 2005; and

(b) "Application for High School Equivalency Diploma or Certificate (Military GED Application) (Form 300-M)", revised 6/96 edition, GED Testing Service, Washington, D.C.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Adult Education, Council on Postsecondary Education, 1024 Capital Center Drive, Suite 250, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [;.]

PAM MILLER, Chair

TRAVIS POWELL, General Counsel

APPROVED BY AGENCY: September 12, 2013

FIELD WITH LRC: September 13, 2013 at 10 a.m.

CONTACT PERSON: Travis Powell, General Counsel, Council on Postsecondary Education, 1024 Capital Center Dr., Suite 350, Frankfort, Kentucky 40601, phone 502.573.1555, ext. 142, fax 502.573.1535, email travis.powell@ky.gov.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, December 10, 2013)

201 KAR 9:081. Disciplinary proceedings.

RELATES TO: KRS 218A.205, [KRS] 311.530-311.620, 311.990

STATUTORY AUTHORITY: KRS 218A.205(3)(c), (d), (e), (5), [;] 311.565(1)(a), (i), 311.595, 311.597, 311.601

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(a) and (i) authorize [authorizes] the board to promulgate administrative regulations to regulate the conduct of licensees and to promote the efficient and fair conduct of disciplinary proceedings. KRS 311.595 and 311.597 authorize

disciplinary action against licensees for specified offenses. KRS 218A.205(3)(c), (d), and (e) require[requires] the board to promulgate an administrative regulation establishing procedures for disciplinary action against a licensee, including the enforcement of licensure standards to restrict the practice of a licensee or an applicant engaged in improper conduct. KRS 218A.205(5) authorizes the board to allow by administrative regulation an anonymous complaint or grievance. KRS 311.601 authorizes the board to adopt administrative regulations to effectuate and implement the provisions of 311.550 to 311.620. This administrative regulation establishes the procedures to be followed in handling formal and informal disciplinary proceedings before the board, to conduct the proceedings with due regard for the rights and privileges of all affected parties.

Section 1. Definitions. (1) "Act" means the Kentucky Medical and Osteopathic Practice Act, KRS 311.550 to 311.620.

(2) "Board" is defined by KRS 311.550(1).

(3) "Charge" is defined by KRS 311.550(14).

(4) "Complaint" is defined by KRS 311.550(15).

(5) "Executive director" is defined by KRS 311.550(4).

(6) "General counsel" is defined by KRS 311.550(5)(2).

(7) "Grievance" is defined by KRS 311.550(13).

(8) "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of any complaint or show cause order.

(9) "Relating to a controlled substance" means any conviction or plea to a criminal charge, regardless of adjudication or the title of the offense named in the plea or judgment of conviction, that is determined from all available facts to have been based upon or resulted from, in whole or part, an allegation of conduct involving the improper, inappropriate, or illegal use, possession, transfer, prescribing, or dispensing of a controlled substance.

(10) "Relating to prescribing or dispensing a controlled substance" means any conviction or plea to a criminal charge, regardless of adjudication or the title of the offense named in the plea or judgment of conviction, that is determined from all available facts to have been based upon or resulted from, in whole or part, an allegation of conduct involving the improper, inappropriate, or illegal prescribing or dispensing of a controlled substance.

(11) "Show cause order" means an order issued pursuant to KRS 311.572.

Section 2. Reception of Grievances; Investigations. (1)(a) A grievance may be submitted by any individual, organization, or entity.

(b)1. The board shall provide a copy of the Information on Filing a Grievance, the Consumer's Guide to the KBML, the Grievance Form, and the Waiver of Privilege, Agreement to Release Records to a party who wants to register a grievance against a physician.

2. Each grievance shall be filed on the Grievance Form; and

a. Include the name and address of the party filing the grievance; or

b. Be filed anonymously, subject to paragraph (d) of this subsection.

(c) A board member or employee may initiate a grievance by providing a written memorandum to the executive director.

(d) If the board receives an anonymous grievance, an investigation shall be conducted if the grievance is accompanied by sufficient corroborating evidence as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the grievance is meritorious.

(2)(a) The board shall initiate each investigation pertaining to prescribing or dispensing of a controlled substance within seventy-two (72) hours of the date of receipt of the grievance.

(b) Except as provided by subsection (1)(d) of this section, each grievance shall be investigated as necessary and as promptly as possible, and presented to the inquiry panel for review.

(c) An investigation pertaining to prescribing or dispensing of a controlled substance shall be presented to the inquiry panel within 120 days of the date of receipt of the grievance unless the

circumstances of a particular grievance make it impossible to timely present the grievance to the inquiry panel.

(d)1. The executive director may hold an investigation pertaining to prescribing or dispensing of a controlled substance in abeyance for a reasonable period of time in order to permit a law enforcement agency to perform or complete essential investigative tasks, following a request by the requesting law enforcement agency.

2. If an investigation pertaining to prescribing or dispensing of a controlled substance is not presented to the inquiry panel within 120 days of the date of receipt of the grievance, the investigative report shall plainly state the circumstances of that particular grievance or investigation that made timely presentation to the inquiry panel impossible.

(e) The inquiry panel or executive director shall have the authority to direct any investigation and shall possess any and all powers possessed by the board in regard to investigations as provided by KRS 311.591 and 311.605.

(f) The inquiry panel shall further be empowered to request the attendance of any person at any meeting of the inquiry panel in regard to the investigation of any grievance or consideration of any disciplinary matter.

(g) The failure, without good cause, of any physician licensed to practice medicine or osteopathy by the board to appear before the inquiry panel when requested shall be considered unprofessional conduct in violation of KRS 311.595(9).

(3) The inquiry panel shall be empowered to request compliance with the reporting requirements of KRS 311.605 or 311.606 and may pursue an investigation, on its own initiative, in regard to an act of noncompliance or any other perceived violation of the Act.

Section 3. Reports and Recommendations; Petitions. (1) If the inquiry panel determines that a grievance warrants the issuance of a complaint against a physician, the inquiry panel shall cause a complaint to be prepared.

(2) If the panel chair determines that a grievance warrants the issuance of a complaint against a physician and circumstances do not allow the timely presentation of the grievance to the inquiry panel, the panel chair shall cause a complaint to be prepared.

(3) If the inquiry panel determines that a disciplinary matter warrants the issuance of a show cause order against a physician, the inquiry panel shall cause a proposed order to be prepared.

(4) The board may issue a show cause order against a physician in regard to any application for licensure, obtaining, retaining, or reobtaining licensure.

Section 4. Complaints. The complaint issued by an inquiry panel shall:

(1) Be signed and dated;

(2) Be styled in regard to the matter of the license to practice in the Commonwealth of Kentucky held by the named physician and designated with an appropriate case number; and

(3) Set forth:

(a) The board's jurisdiction in regard to the subject matter of the complaint; and

(b) In numerical paragraphs, sufficient information to apprise the named physician of the general nature of the charges.

Section 5. Show Cause Orders. The show cause order shall:

(1) Be signed and dated by an officer of the board;

(2) Be styled in regard to the license, application for license, or application for renewal, registration, or reregistration of a license to practice in the Commonwealth of Kentucky held by or submitted by the named physician, appropriately, and designated with an appropriate order number;

(3) Set forth:

(a) The board's jurisdiction in regard to the subject matter of the order; and

(b) In numerical paragraphs, the information which the board accepts to be true and the statutory basis for the board's finding that grounds exist for the discipline of the named physician's license; and

(4) Direct the named physician to show cause why disciplinary action should not be taken in view of the matters expressed in the order.

Section 6. Orders to Respond. Upon issuance of a complaint, the inquiry panel shall notify the charged physician that:

(1) A response is due within thirty (30) days after receiving notice of the complaint; and

(2) Failure to respond within that time period may be taken by the board as an admission of the charges.

Section 7. Notice and Service of Process. Each notice shall be issued as required by KRS 13B.050.

Section 8. Proceedings Pursuant to the Issuance of a Complaint or Show Cause Order. (1) Appointment of hearing officer. The board shall appoint a hearing officer in accordance with KRS 13B.030 and 13B.040.

(2) Appointment of the prosecuting attorney. The board's general counsel or assistant general counsel shall act as the prosecuting attorney in regard to any disciplinary proceeding, unless the board appoints a special prosecuting attorney. The prosecuting attorney shall not participate in any deliberations of the board pursuant to the issuance of a complaint, show cause order, or order of temporary discipline.

(3) Appointment of advisory counsel. The board may appoint a representative of the Attorney General's office, the board's general counsel, or other attorney to act as advisory counsel to the board in regard to any deliberations of the board pursuant to the issuance of a complaint, show cause order, or order of temporary discipline.

(4) The provisions of KRS Chapter 13B shall govern the conduct of each proceeding.

Section 9. Mandatory Reporting; Mandatory Disciplinary Sanctions; Emergency Action; Expedited Proceedings. (1)(a) Every applicant for initial licensing to practice medicine or osteopathy within the Commonwealth of Kentucky shall report upon the applicant's initial application any criminal conviction sustained or any plea of guilt, plea of nolo contendere, or Alford plea the applicant has entered to criminal charges in any state, regardless of adjudication.

(b) Every applicant for initial licensing to practice medicine or osteopathy within the Commonwealth of Kentucky shall report upon the applicant's initial application any disciplinary action taken or sanction imposed upon the applicant's license to practice medicine or osteopathy in any state, to include surrendering or placing the applicant's license in an inactive or retirement status to resolve a pending investigation by the licensing authority.

(c) Every applicant for initial licensing to practice medicine or osteopathy within the Commonwealth of Kentucky shall report upon the applicant's initial application if the applicant is currently under investigation by the licensing authority of any other state for possible violations of the licensing or regulatory statutes of that state.

(d) Every person licensed to practice medicine or osteopathy within the Commonwealth of Kentucky shall report to the board any criminal conviction or plea of guilt, nolo contendere, or Alford plea to any criminal charges, regardless of adjudication, within ten (10) days of the entry of judgment of conviction or the entry of the plea, entered into in any state. As part of this reporting, the licensee shall provide a copy of the judgment of conviction or plea documents.

(e) Every person licensed to practice medicine or osteopathy within the Commonwealth of Kentucky shall report to the board within ten (10) days of receipt, notice of any disciplinary action taken or sanction imposed upon the person's license in any state, including surrendering a license or placing a license into inactive or retired status to resolve a pending licensing investigation. As part of this reporting requirement, the licensee shall provide a copy of the order issued by or entered into with the other licensing board.

(f)1. Failure to report a criminal conviction or plea, or action taken by another licensing board, as required of an applicant by paragraphs (a) through (c) of this subsection, shall constitute a

violation of KRS 311.595(9) and (12).

2. Upon a finding by the board that the applicant committed a violation, the appropriate panel:

a. Shall impose a fine of \$5,000 and the appropriate sanction mandated by subsection (2), (3), or (4) of this section; and

b. May impose any other additional sanction authorized by KRS 311.595, including denial of the application or revocation of the license previously issued based upon the incomplete information.

(g)1. Failure to report a criminal conviction or plea, or action taken by another licensing board as required of a licensee by paragraphs (d) and (e) of this subsection, shall constitute a violation of KRS 311.595(9) and (12).

2. Upon a finding by the board that the licensee committed a violation, the appropriate panel:

a. Shall impose a fine of \$5,000 and the appropriate sanction mandated by subsection (2), (3), or (4) of this section; and

b. May impose any other additional sanction authorized by KRS 311.595 based upon all of the information available to the panel when it takes[at the time of] action.

(2)(a) If an initial applicant reports being the subject of a pending criminal investigation or of a pending investigation by a state licensing authority, the board shall defer any action upon that initial application until it has received official notice that the criminal or state licensing investigation has been completed and official notice of what action was taken as a result of the investigation.

(b)1. If an initial applicant has been convicted of a felony offense or entered a plea of guilt, an Alford plea, or a plea of nolo contendere to any felony charge relating to a controlled substance, regardless of adjudication, in any state, the board shall exercise its normal discretion to grant or deny the application based upon all available facts.

2. If the board decides to grant a license to the initial applicant, the board:

a. Shall, at a minimum, permanently ban the applicant from prescribing or dispensing controlled substances as an express condition of granting the license; and

b. May impose any other conditions in addition to that permanent ban as express conditions of granting the license.

(c) If a licensee has been convicted of or entered a plea of guilt, an Alford plea, or a plea of nolo contendere to any felony offense relating to a controlled substance, regardless of adjudication in any state, the appropriate panel:

1.[a.] Shall, at a minimum, permanently ban the licensee from prescribing or dispensing controlled substances as a disciplinary sanction; and

2.[b.] In addition to the permanent ban, may take any other[appropriate] disciplinary action authorized by KRS 311.595, including revocation, against the licensee[license]; or

2. ~~Shall revoke the license based upon the facts available to the panel at the time of action.~~

(3)(a)1. If an initial applicant has been convicted of a misdemeanor offense relating to prescribing or dispensing a controlled substance or entered a plea of guilt, an Alford plea, or plea of nolo contendere to a misdemeanor charge relating to prescribing or dispensing a controlled substance, regardless of adjudication, in any state, the board shall exercise its normal discretion to grant or deny the application based upon all available information.

2. If the board decides to grant the application, the board:

a. Shall, at a minimum, ban the applicant from prescribing or dispensing controlled substances for a period of two (2) to five (5) years as an express condition of granting the license; and

b. May impose any other conditions in addition to that ban as express conditions of granting the license.

(b) If a licensee has been convicted of or entered a plea of guilt, an Alford plea, or a plea of nolo contendere to a misdemeanor offense relating to prescribing or dispensing a controlled substance, regardless of adjudication in any state, the appropriate panel:

1.[a.] Shall, at a minimum, ban the licensee from prescribing or dispensing controlled substances for a period of two (2) to five (5) years as a disciplinary sanction; and

2.[b.] In addition to the two (2) to five (5) year ban, may take any ~~other[appropriate]~~ disciplinary action authorized by KRS 311.595, including revocation, against the ~~licensee[license]~~; or

2. Shall revoke the license based upon the facts available to the panel at the time of action].

(4)(a)1. If an initial applicant has surrendered the applicant's professional license or placed that license into an inactive or retired status to resolve a pending licensing investigation, the board shall not grant a license to that initial applicant, unless the licensing authority of that state has subsequently reissued or reinstated the license.

2. If the licensing authority of the state has subsequently reissued or reinstated the license, the board shall exercise its normal discretion in determining whether to grant or deny the application based upon the available facts.

(b) If an initial applicant has had a disciplinary action taken against or sanction imposed upon the applicant's license to practice medicine or osteopathy in any state, the board:

1.a. Shall, at a minimum, impose the same substantive sanctions imposed by the other state as an express condition of granting the license; and

b. May impose additional sanctions as an express condition of granting the license; or

2. Shall deny the application based upon the facts available at the time.

(c) If a licensee has had disciplinary action taken against or sanctions imposed upon the licensee's license to practice medicine or osteopathy in any state, the appropriate panel:

1.[a.] Shall, at a minimum, impose the same substantive sanctions, up to and including permanent revocation or surrender, as a disciplinary sanction against the licensee's Kentucky license; and

2.[b.] In addition to those minimum sanctions, may take any ~~other[appropriate-additional]~~ disciplinary action authorized by KRS 311.595, including revocation, against the licensee[-or

2. Shall revoke the license based upon the facts available to the panel at the time of action].

(5)(a) Failure to report a criminal conviction, a plea, or a disciplinary sanction by another licensing board as required by this section shall constitute a violation of law which constitutes an immediate danger to the public health, safety, or welfare, for purposes of KRS 311.592 and 13B.125.

(b) If the board or one (1) of its panels learns that a licensee has suffered a qualifying criminal conviction or disciplinary sanction and has failed to report it as required by this section, the panel or its chair may immediately issue an emergency order appropriately suspending or restricting the licensee in accordance with this section.

(c) If an emergency order is issued and an emergency hearing is conducted pursuant to KRS 13B.125(3), the hearing officer shall not modify or amend the scope of the emergency order if there is substantial evidence to support the finding that the licensee failed to report a qualifying criminal conviction or disciplinary sanction as required by this section.

(6)(a) If the only violation charged in a complaint against the licensee is a criminal conviction or disciplinary sanction described in this section, and the conviction or disciplinary action may be proved by accompanying official certification, the board shall take appropriate steps to expedite the resolution of that complaint.

(b) Following receipt of the licensee's response to the complaint, board counsel shall promptly file a motion for summary disposition on the ground that no genuine issues of material fact are in dispute, pursuant to KRS 13B.090(2).

(c) The licensee:

1. Shall not re-litigate either the criminal conviction or disciplinary sanction; and

2. May offer as defense that the certification of the document is fraudulent.

(d)1. If the licensee has admitted the occurrence of the criminal conviction or disciplinary action in the response, an additional response shall not be given to the motion for summary disposition.

2. If the licensee has denied the occurrence of the criminal conviction or disciplinary sanction, and alleges that the certification

is fraudulent, the licensee may file a response to the motion for summary disposition within twenty (20) days of receipt of the motion.

(e)1. Once the assigned hearing officer determines that a response was either not permitted or not filed within the allotted time or the hearing officer has received the written response within the time allotted, the hearing officer shall issue a ruling upon the motion as soon as possible but no later than thirty (30) days after the motion is submitted for decision.

2. If the hearing officer issues a recommended order, the recommended order shall be presented to the board's hearing panel at its next meeting for resolution and imposition of the sanction required by this section.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Information on Filing a Grievance", January 2013;

(b) "Consumer's Guide to the KBML", January 2013;

(c) "Grievance Form", January 2013; and

(d) "Waiver of Privilege, Agreement to Release Records", January 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m.

PRESTON P. NUNNELLEY, M.D., President

APPROVED BY AGENCY: October 8, 2013

FILED WITH LRC: October 11, 2013 at noon

CONTACT PERSON: C. Lloyd Vest II, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502) 429-7150, fax (502) 429-7118.

**GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(As Amended at ARRS, December 10, 2013)**

201 KAR 30:315. Renewal and reinstatement.

RELATES TO: KRS 324A.152(2), (3), (4), (6), (7), 324A.154, 324A.155, 324A.163(4)

STATUTORY AUTHORITY: KRS 324A.152(8), 324A.155(2), 324A.163(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.152(8) requires the board to promulgate administrative regulations necessary to implement and enforce KRS 324A.150 to 324A.164[324A.152(6) requires the board to establish by administrative regulation the renewal process for appraisal management companies]. KRS 324A.155 and [KRS] 324A.163 require the board to establish by administrative regulation the amount to be charged to registrants for the appraisal management company recovery fund. This administrative regulation establishes the application process for renewal of registration and for reinstatement of an expired registration for[or] appraisal management companies and the amount to be charged to registrants for the appraisal management company recovery fund.

Section 1. Registration Renewal. (1) The board shall send a renewal notice to the controlling person identified by the registrant by September 1 of each year.

(2)(a) The registrant shall apply for renewal in accordance with KRS 324A.152 and this administrative regulation by October 1 to ensure that all renewal requirements are satisfied before the expiration date of the registration.

(b) Failure to receive a renewal notice established in subsection (1) of this section from the board shall not relieve the registrant of the responsibility to timely apply for renewal.

(3) A Renewal Application for Appraisal Management Company Registration shall not be complete, and a renewal shall not be issued, until all requirements under KRS 324A.152 and in

this administrative regulation are satisfied.

(4) ~~Each registration~~~~[All registrations]~~ shall expire on October 31 of each year unless renewed before that time.

(5) A holder of an appraisal management company registration desiring the renewal of registration shall:

(a) Apply in writing on the Renewal Application for Appraisal Management Company Registration provided by the board;

(b) Submit the renewal fee required by 201 KAR 30:310, Section 1(2); and

(c) Submit the payment for the appraisal management company recovery fund required by KRS 324A.155 in the amount of \$300.

(6) ~~[None of]~~ The fees or payments for renewal or reinstatement shall not be refundable.

Section 2. Reinstatement of an Expired Registration. (1) To reinstate an expired registration within six (6) months after expiration, a registrant shall:

(a) Apply in writing on the Renewal Application for Appraisal Management Company Registration provided by the board;

(b) Submit the reinstatement fee ~~[in the amount of \$2,000]~~ required by 201 KAR 30:310, Section 1(3);

(c) Submit payment of \$300 to be deposited in the appraisal management company recovery fund in accordance with KRS 324A.155; and

(d) Submit payment of the late filing fee required by KRS 324A.152(7)~~[of fifty (50) dollars for each month or part thereof since the registration expired as required by KRS 324A.152(7)(b)]~~.

~~(2) [Failure to reinstate within six (6) months of expiration shall require the expired registrant to submit a new application for registration under 201 KAR 30:330 and meet all current requirements for registration.]~~

~~(3)~~ Reinstatement shall not apply retroactively to the activities of the registrant while the registration was expired.

~~(3) [(4)]~~ Failure to renew a registration prior to the expiration date shall result in a loss of authority to operate, in accordance with KRS 324A.152(7)~~[324A.155(7)]~~.

Section 3. Incorporation by Reference. (1) ~~[The]~~ "Renewal Application for Appraisal Management Company Registration", December~~[September]~~ 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, (859) 623-1658, Monday through Friday, 8 a.m. to 4:30 p.m.

HAROLD BRANTLEY, Chair

APPROVED BY AGENCY: September 27, 2013

FILED WITH LRC: October 10, 2013 at 2 p.m.

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Board of Real Estate Appraisers, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598.

GENERAL GOVERNMENT CABINET
Kentucky Board of Interpreters for the Deaf
and Hard of Hearing
(As Amended at ARRS, December 10, 2013)

201 KAR 39:040. Fees.

RELATES TO: KRS 309.312(1)(a), (4), 309.306, 309.314(1), (2), (4), (6)

STATUTORY AUTHORITY: KRS 309.304(3), ~~[309.306]~~, 309.314(1), (2), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.304(3) and 309.314 require the Board of Interpreters for the Deaf and Hard of Hearing to promulgate administrative regulations to effectively carry out the provisions of KRS 304.300 to 309.319 and to establish requirements concerning license fees. This

administrative regulation establishes all fees charged by the board.

Section 1. Fees for Licensure. (1) The application fee for initial licensure shall consist of the following:

(a) A nonrefundable fifty (50) dollar fee for general application; and

(b) A \$125 fee for initial licensure which shall be refunded if:

1. The application is denied; and

2. The applicant submits a written request for the refund [be fifty (50) dollars. This fee shall be nonrefundable.]

~~(2) The initial licensure fee shall be \$125 [\$100]. If the application for initial licensure is denied, the initial licensure fee shall be refunded upon written request of the applicant.]~~

(3) The annual renewal fee shall be \$125~~[seventy-five (75) dollars]~~. Renewal fees shall not be refundable.

Section 2. Fees for Temporary Licensure. (1) The application fee for initial temporary licensure shall be fifty (50) dollars. This fee shall be nonrefundable.

(2) The initial licensure fee for a temporary license shall be \$125~~[fifty (50) dollars]~~. If the application for initial temporary licensure is denied, the initial licensure fee shall be refunded upon written request of the applicant. The extension application~~[annual]~~ fee to maintain or extend a temporary license shall be \$125~~[fifty (50) dollars]~~. This fee shall be nonrefundable.

Section 3. Late Renewal and Extension Fees. (1) All licenses renewed during the sixty (60) day grace period shall require payment of a late renewal fee of sixty (60) dollars in addition to the current renewal fee set forth in Section 1(3) of this administrative regulation.

(2) All temporary licenses extended during the sixty (60) day grace period shall pay a late fee of thirty-five (35) dollars in addition to the current extension application fee set forth in Section 2(3) of this administrative regulation.

(3) Late renewal and extension fees shall be nonrefundable~~[not be refundable]~~.

Section 4. Reinstatement Fee. (1) The reinstatement fee for a license terminated pursuant to KRS 309.314(3) shall be \$125, in addition to the current renewal or extension application fee as set forth in Section 1(3) or 2(3) of this administrative regulation.

(2) The reinstatement fee shall be nonrefundable~~[not be refundable]~~.

Section 5. Fee for a Reciprocal License. (1) The fee for a reciprocal license shall be \$250.

(2) The reciprocal license fee shall be nonrefundable~~[not be refundable]~~.

Section 6. Duplicate License Fee. The fee for a duplicate license shall be ten (10) dollars.

TIM OWENS, Board Chair

APPROVED BY AGENCY: July 11, 2013

FILED WITH LRC: July 15, 2013 at 2 p.m.

CONTACT PERSON: Karen Lockett, Board Administrator, Kentucky Board of Interpreters for the Deaf and Hard of Hearing, P.O. Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296.

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Waste Management
(As Amended at ARRS, December 10, 2013)

401 KAR 102:005. Definitions for 401 KAR Chapter 102.

RELATES TO: KRS 224.1-415, 224.1-400, 224.1-405

STATUTORY AUTHORITY: KRS 224.1-415

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.1-415 authorizes~~[establishes]~~ the Brownfield Redevelopment

Program and authorizes the cabinet to administer the program. This administrative regulation defines terms used in 401 KAR Chapter 102 Brownfield Redevelopment Program.

Section 1. Definitions. (1) "Applicant" means the person whofthat owns or intends to acquire property and makes certification to the cabinet in accordance with KRS 224.1-415(2) and 401 KAR Chapter 102.

(2) "Cabinet" is defined by KRS 224.1-010(9).

(3) "Hazardous substance" is defined by KRS 224.1-400(1)(a).

(4) "Person" is defined by KRS 224.1-010(17).

(5) "Petroleum" is defined by KRS 224.60-115(15).

(6) "Petroleum storage tank" is defined by KRS 224.60-115(16).

(7) "Pollutant or contaminant" is defined by KRS 224.1-400(1)(f).

(8) "Property" means real property, the expansion, redevelopment, or reuse of which is complicated due to:

(a) A release of petroleum governed by KRS 224.1-405 or a release of a hazardous substance, or pollutant or contaminant governed by KRS 224.1-400 that occurred prior to acquisition of the property by the applicant; or

(b) A potential presence or perceived presence of a release of a hazardous substance, or pollutant or contaminant or petroleum based on an all appropriate inquiry.

(9) "Property management plan" means the plan submitted to the cabinet in accordance with 401 KAR 102:020.

(10) "Release" means:

(a) For a hazardous substance, or pollutant or contaminant, the definition established by KRS 224.1-400(1)(b); or

(b) For petroleum or petroleum product, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing from a source other than a petroleum storage tank into the environment including the abandonment or discarding of barrels, containers, and other closed receptacles, but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, and the normal application of fertilizer.

LEONARD K. PETERS, Secretary

APPROVED BY AGENCY: September 11, 2013

FILED WITH LRC: September 13, 2013 at noon

CONTACT PERSON: Louanna Aldridge, Division of Waste Management, 200 Fair Oaks, Second Floor, Frankfort, Kentucky 40601, phone (502) 564-6716, fax (502) 564-4049, email Louanna.Aldridge@ky.gov.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

(As Amended at ARRS, December 10, 2013)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) "Department of Corrections Policies and Procedures," December 10[August 20], 2013[December 17, 2012], are incorporated by reference. Department of Corrections Policies and Procedures include:

1.2 News Media (Amended 12/08/09)

1.4 The Monitoring and Operation of Private Prisons (Amended

5/15/08)

2.1 Inmate Canteen (Amended 10/12/12)

2.12 Abandoned Inmate Funds (Amended 6/12/12)

3.1 Code of Ethics (Amended 12/10/13[8/20/13][07/09/07])

3.5 Sexual Harassment and Anti-Harassment (Amended 12/10/13[8/20/13][5/15/08])

3.9 Student Intern Placement Program (Added 9/13/2010)

3.10 Appearance and Dress for Nonuniformed Staff (Amended 9/13/10)

3.11 Drug Free Workplace Employee Drug Testing (Amended 12/10/13[8/20/13][9/13/10])

3.14 Employee Time and Attendance Requirements (Added 9/13/2010)

3.17 Uniformed Employee Dress Code (Amended 8/20/13[4/10/06])

3.22 Staff Sexual Offenses (Amended 12/10/13[Added 8/20/13])

3.23 Internal Affairs Investigation (Added 8/25/09)[4.4 Educational Assistance Program (Amended 8/25/09)]

5.1 Research and Survey Projects (Amended 12/10/13[8/20/13][5/15/08])

5.3 Program Evaluation and Measurement (Amended 6/12/12)

6.1 Open Records Law (Amended 5/14/07)

8.2 Fire Safety (Amended 2/15/06)

8.7 Notification of Extraordinary Occurrence (Amended 12/13/05)

9.4 Transportation of Inmates to Funerals or Bedside Visits (Amended 12/17/12)

9.6 Contraband (Amended 6/12/12)

9.8 Search Policy (Amended 12/10/13[8/20/13][11/9/10])

9.13 Transport to Court - Civil Action (Amended 07/09/07)

9.18 Informants (Amended 9/13/10)

9.19 Found Lost or Abandoned Property (Amended 10/14/05)

9.20 Electronic Detection Equipment (Amended 10/14/05)

10.2 Special Management Inmates (Amended 8/20/13[12/17/12])

10.3 Safekeepers and Contract Prisoners (Amended 9/15/04)

11.2 Nutritional Adequacy of Inmate Diet (Amended 5/15/08)

11.4 Alternative Dietary Patterns (Amended 5/15/08)

13.1 Pharmacy Policy and Formulary (Amended 8/25/09)

13.2 Health Maintenance Services (Amended 11/9/10)

13.3 Medical Alert System (Amended 10/14/05)

13.5 Advance Healthcare Directives (Added 4/12/05)

13.6 Sex Offender Treatment Program (Amended 5/15/08)

13.7 Involuntary Psychotropic Medication (Amended 10/14/05)

13.8 Substance Abuse Program (Amended 10/12/12)

13.9 Dental Services (Amended 10/14/05)

13.10 Serious Infectious Disease (Amended 12/13/05)

13.11 Do Not Resuscitate Order (Amended 8/9/05)

13.12 Suicide Prevention and Intervention Program (Added 8/25/09)

13.13 Mental Health Services (Added 8/20/13)

14.1 Investigation of Missing Inmate Property (Amended 10/14/05)

14.2 Personal Hygiene Items (Amended 8/20/13[10/12/12])

14.3 Marriage of Inmates (Amended 10/14/05)

14.4 Legal Services Program (Amended 07/09/07)

14.5 Board of Claims (Amended 10/14/05)

14.6 Inmate Grievance Procedure (Amended 8/20/13[6/12/12])

14.7 Sexual Abuse[Assault] Prevention and Intervention Programs (Amended 12/10/13[8/20/13][11/15/06])

15.1 Hair, Grooming and ID Card Standards (Amended 10/12/12)

15.2 Rule Violations and Penalties (Amended 9/13/10)

15.3 Meritorious Good Time (Amended 12/13/05)

15.4 Program Credit (Amended 6/12/12)

15.5 Restoration of Forfeited Good Time (Amended 5/14/07)

15.6 Adjustment Procedures and Programs (Amended 10/14/05)

15.7 Inmate Account Restriction (Amended 11/9/10)

15.8 Unauthorized Substance Abuse Testing (Amended 10/14/05)

16.1 Inmate Visits (Amended 10/12/12)

16.2 Inmate Correspondence (Amended 8/20/13[10/12/12])
 16.3 Inmate Access to Telephones (Amended 10/12/12)
 16.4 Inmate Packages (Amended 07/09/07)
 17.1 Inmate Personal Property (Amended 8/20/13[6/12/12])
 17.2 Assessment Center Operations (Amended 11/15/06)
 17.3 Controlled Intake of Inmates (Amended 5/15/08)
 17.4 Administrative Remedies: Sentence Calculations (Amended 4/10/06)
 18.1 Classification of the Inmate (Amended 07/09/07)
 18.2 Central Office Classification Committee (Amended 8/20/13[10/14/05])
 18.5 Custody and Security Guidelines (Amended 6/12/12)
 18.7 Transfers (Amended 07/09/07)
 18.9 Out-of-state Transfers (Amended 2/15/06)
 18.11 Placement for Mental Health Treatment in CPTU, KCIW-PCU, or KCPC (Amended 1/9/07)
 18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (Amended 2/15/06)
 18.13 Population Categories (Amended 07/09/07)
 18.15 Protective Custody (Amended 11/15/06)
 18.16 Information to the Parole Board (Effective 11/15/06)
 18.17 Interstate Agreement on Detainers (Amended 07/09/07)
 18.18 International Transfer of Inmates (Amended 5/14/07)
 19.1 Governmental Services Program (Amended 10/12/12)
 19.2 Sentence Credit for Work (Added 2/13/04)
 19.3 Inmate Wage/Time Credit Program (Amended 8/20/13[12/08/09])
 20.1 Educational Programs and Educational Good Time (Amended 8/25/09)
 22.1 Privilege Trips (Amended 10/14/05)
 23.1 Religious Programs (Amended 8/20/13[10/12/12])
 25.2 Public Official Notification of Release of an Inmate (Amended 10/14/05)
 25.3 Prerelease Program (Effective 11/15/06)
 25.4 Institutional Inmate Furloughs (Amended 07/09/07)
 25.6 Community Center Program (Amended 07/09/07)
 25.8 Extended Furlough (Amended 4/12/05)
 25.10 Administrative Release of Inmates (Amended 11/9/10)
 25.11 Victim Services Notification (Amended 8/25/09)
 26.1 Citizen Involvement and Volunteer Service Program (Amended 10/12/12)
 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the 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, Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner

APPROVED BY AGENCY: August 20, 2013

FILED WITH LRC: August 20, 2013 at 3 p.m.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Department of Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(As Amended at ARRS, December 10, 2013)

902 KAR 20:058. Operation and services; primary care center.

RELATES TO: KRS 216B.010, 216B.015, 216B.040, 216B.042, 216B.045-216B.055, 216B.075, 216B.105-216B.131, 216B.176, 216B.177, 216B.990, Chapter 311, 314, 45 C.F.R. 160, 164, 42 U.S.C. 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS 216B.042, 216B.105[–EO 2004-726]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires that the Kentucky Cabinet for Health and Family Services regulate health facilities and health services. This

administrative regulation establishes[provides] licensure requirements for the operation of and services provided by primary care centers.[EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Office of Inspector General and its regulatory authority under the Cabinet for Health and Family Services.]

Section 1. Definitions. (1) "Center" means a primary care center.

(2) "Qualified dietitian" or "nutritionist" means a person who:

(a) 1.[A person who] Has a bachelor of science degree in foods and nutrition, food service management, institutional management, or related services;

2.[and] Has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA); and

3. Is a member of the ADA or is registered as a dietitian by ADA;[or]

(b) 1.[A person who] Has a master's degree in nutrition; and

2. Is a member of ADA or is eligible for registration by ADA; or

(c) 1.[A person who] Has a bachelor of science degree in home economics; and

2. Three (3) years of work experience with a registered dietitian.

Section 2. Requirement to Provide Services. (1) A primary care center shall:

(a) Have permanent facilities; and

(b) Provide basic health care services to patients of all ages.

(2) A primary care center shall provide:

(a) A variety of preventive, diagnostic, and therapeutic services by appropriately licensed or certified health professionals[~~members of the health professions~~] to meet usual health care needs in a manner that ensures the continuity of care; and

(b) Appropriate referrals to patients who require services that are above the level of basic health care services and not provided by the center.

Section 3. Administration and Operations. (1) Licensee. [(a)] The licensee shall be legally responsible for the center and for compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the center.

[(b) The licensee shall establish written policies][,] [for the administration and operation of the center][service][.]

(2) Administrator.

(a) Each center[All centers] shall have an administrator who shall be responsible for the operation of the center.

(b) In the absence of the administrator, responsibility shall be delegated to a similarly qualified staff person[and shall delegate the responsibility in his absence].

(3) Policies.

(a) Administrative policies. The center shall have written administrative policies established by the licensee covering all aspects of the center's operation, including:

1. A description of organizational structure, staffing, and allocation of responsibility and accountability;

2. A description of referral linkages with inpatient facilities and other providers;

3. Policies and procedures for the guidance and control of personnel performances;

4. A description of services directly provided by the center;

5. A description of the administrative and patient care records and reports;

6. A policy for an expense and accrual-based revenue accounting system following generally accepted accounting procedures; and

7. A policy to specify the provision of emergency medical services.

(b) Patient care policies. Patient care policies shall be developed by the medical director[staff physician(s)] and other professional staff for all medical aspects of the center's program to include:

1. Written protocols, including[protocol(s), to include:] standing

orders, rules of practice, and medical directives ~~that[which]~~ apply[applying] to services provided by the center. The protocols shall be signed by the medical director; and ~~licensed staff physician of the center~~[:].

2. ~~[The center shall have]~~ Patient care policies for patients held in the center's holding-observation accommodations.

(c) A system shall be established to ensure that, if feasible, the patient shall be/is always cared for by the same health professional or health team, to assure continuity of care.

(d) Patient rights policies. The center shall adopt written policies regarding the rights and responsibilities of patients. These patient rights policies shall assure that each patient shall be/is:

1. a. Informed of these rights and of all rules and **requirements of 902 KAR Chapter 20[administrative regulations]** governing patient conduct and responsibilities, including a procedure for allowing the patient to voice a grievance or recommend changes in policies and services.

b. Upon the patient's request, a grievance or recommendation shall be conveyed within a reasonable time to a decision making level within the organization with the authority to take corrective action;[handling patient grievances].

2. [Is] Informed of services available at the center and of related charges including any charges not covered under Medicare, Medicaid, or other third-party payor arrangements[:].

3. [Is] Informed of his or her medical condition, unless medically contraindicated[()] as documented in his or her medical record;

4. [,] and [Is] Afforded the opportunity to participate in the planning of his or her medical treatment and to refuse to participate in experimental research[:].

5. [4- Is] Encouraged and assisted to understand and exercise his or her patient rights;

6. ~~[to this end he may voice grievances and recommend changes in policies and services. Upon the patient's request the grievances and recommendations shall be conveyed within a reasonable time to an appropriate decision making level within the organization which has authority to take corrective action.~~

5- [Is] Assured confidential treatment of his or her records and **shall be/is** afforded the opportunity to approve or refuse[their] release of the records to any individual not involved in the patient's[his] care, except as required by applicable[Kentucky] law or third-party payment contract; and

7. ~~[6- Is] Treated with consideration, respect, and full recognition of his or her dignity and individuality, including privacy in treatment and in the care of his or her personal health needs.~~

(4) Personnel.

(a) Primary care provider team. Except for extensions **established[described]** in Section 4(4) of this administrative regulation, the center shall have a minimum of one (1) or more full-time licensed physicians and:

1. One (1) or more full-time advanced practice registered nurses;

2. One (1) or more full-time physician assistants; or

3. One (1) or more full-time registered nurses.

(b) Medical Director. The center shall have a medical director who shall:

1. Be a licensed physician responsible for all medical aspects of the clinic; and

2. Provide direct medical services in accordance with the Medical Practice Act, KRS Chapter 311.

(c) Physicians. Each physician employed by or having an agreement with the center to perform direct medical services shall be:

1. Qualified to practice general medicine, including as a general practitioner, family practitioner, **obstetrician – gynecologist[obstetrician/gynecologist]**, pediatrician, or internist, or qualified to practice psychiatry; and

2. A member of the medical staff or hold courtesy staff privileges at one (1) or more hospitals with which the center has a formal transfer agreement.

(d) [Physician(s) and either one (1) or more full-time advanced practice registered nurse(s), one (1) or more physician assistant(s), or one (1) or more full-time registered nurse(s).

1. Physician. The physician shall be in active practice and shall

~~be responsible for all medical aspects of the center, and shall provide direct medical services in accordance with KRS Chapter 311. Physicians employed by or having an agreement with the center to perform direct medical services shall be qualified to practice general medicine, for example, general practitioners, family practitioners, obstetrician/gynecologists, pediatricians, and internists. Physicians employed by or having an agreement with the center to perform direct medical services shall be members of the medical staff of, or hold at least courtesy staff privileges at, one (1) or more hospitals with which the center has a formal transfer agreement.~~

2. Nurse. An advanced practice registered nurse or[and] a registered nurse employed by the center directly or by contract shall provide services within his or her relative scope[their respective scopes] of practice pursuant to KRS Chapter 314.

(e) [3-] Physician's assistant. A physician assistant shall provide services within his or her scope of practice pursuant to KRS Chapter 311.

(f) [(b)] In-service training.

1. All center personnel shall participate in ongoing in-service training programs relating to their respective job activities.

2. The training[These] programs shall include:

a. Thorough job orientation for new personnel; and[:]

b. Regular in-service training [programs,] emphasizing professional competence and the human relationship necessary for effective health care.

(5) Medical records.

(a) Ownership.

1. Medical records shall be the property of the center.

2. The original medical record shall not be removed from the center except by court order.

3. Copies of a medical record or portions of the record may be used and disclosed. **Use and disclosure shall be as established in[permitted by]** this administrative regulation.

(b) Confidentiality and security: use and disclosure.

1. The center shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

2. The center may use and disclose medical records. **Use and disclosure shall be as established[permitted]** or required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or as **established[expressly provided for]** in this administrative regulation.

3. This administrative regulation shall not be construed to forbid the center from establishing higher levels of confidentiality and security than required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164.

(c) The center shall maintain a medical record for each[a] patient. **The medical record[which]** shall include[to include] at least the following:]

1. The patient's medical and social history, including data obtained[obtainable] from other providers;

2. A description of each medical visit or contact, including the[to include] condition or reason necessitating the visit or contact, assessment, diagnosis, services provided, medications and treatments prescribed, and disposition made;

3. Reports of all laboratory, x-ray, and other test findings; and

4. Documentation of all referrals made, including the[to include] reason for the referral, to whom the patient was referred, and any information obtained from the referral source.

(d) [(b)] Confidentiality of all patient records shall be maintained at all times.

(e) [(e)] Transfer of records. The center shall:

1. Establish systematic procedures to assist in continuity of care if the patient moves to another source of care[:]; and

2. ~~[the center shall,] Upon proper release, transfer medical records or an abstract[thereof] if requested.~~

(f) [(d)] Retention of records. After the patient's death or discharge, the completed medical record shall be placed in an inactive file and:

1. Retained for six (6)~~five (5)~~ years; or
2. If a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(6) Linkage agreements.

(a) The center shall have linkages through written agreements with providers of other levels of care that[which] may be medically indicated to supplement the services available in the center. These linkages shall include:

1. Hospitals; and
2. Emergency medical transportation services in the service area.

(b) Linkage agreements with inpatient care facilities shall incorporate provisions for:

1. Appropriate referral and acceptance of patients from the center;
- 2.~~Provisions for~~ Appropriate coordination of discharge planning with center staff; and
- 3.~~Provisions for~~ The center to receive a copy of the discharge summary for each patient referred to the center.

(c) The written transfer agreements shall include designation of responsibility for:

1. ~~Responsibility for~~ Transfer of information;
2. ~~Responsibility for~~ Provision of transportation;
3. ~~Responsibility for~~ Sharing of services, equipment, and personnel;
4. ~~Responsibility for~~ Provision of total care or portions thereof in relation to facility and agency capability; and
5. ~~Responsibility for~~ Patient record confidentiality pursuant to all applicable federal and state law.

(d)1. A linkage agreement shall not be required to transfer medical records to any other treating health care facility or provider.

2. The center may use and disclose medical records. Use and disclosure shall be as established[as permitted] or required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or as expressly established in[provided by] this administrative regulation.

(7) Quality assurance program. The center shall have an ongoing, written quality assurance program approved by the licensee that:

(a) Includes effective mechanisms for reviewing and evaluating patient care in order to identify problems or opportunities to improve care;

(b) Provides for appropriate responses to findings;

(c) Assigns responsibility for monitoring and evaluating patient care;

(d) Delineates the scope of care provided by the center;

(e) Identifies the aspects of care that the center provides;

(f) Identifies indicators and appropriate clinical criteria that can be used to monitor these aspects of care;

(g) Collects and organizes data for each indicator;

(h) Contains written procedures for taking appropriate corrective action;

(i) Assesses the effectiveness of the actions taken to correct problems and documents the improvement in care; and

(j) Communicates relevant information to other individuals, departments, or services as to the quality assurance program[Utilization review and medical audit.

~~(a) In order to determine the appropriateness of the services delivered, the center shall establish procedures for the medical audit and utilization review of services provided in the center.~~

~~(b) The center may use professional capabilities and assistance obtained[obtainable][from other agencies and sources.~~

~~(c) The center shall develop[There shall be][a written plan for utilization review,][developed by the center][including frequency of reviews and composition of the body conducting the review].~~

Section 4. Provision of Services. (1)(a) Hours of operation and coverage. Scheduled hours of the center's operation shall

reasonably accommodate the various segments of the population served.

(b) Provisions shall be made for scheduled evening hours and~~for~~ weekend hours, if needed.

(2) Basic services. The center shall provide directly~~(except as noted)]~~ at least the following services:

(a) Medical diagnostic and treatment services of sufficiently broad scope to accommodate the basic health needs~~(including prenatal and postnatal care)]~~ of all age groups, including prenatal and postnatal care;

(b) Emergency services.

1. The center shall provide emergency medical services during the regularly-scheduled hours for treatment of injuries and minor trauma.

2. The center shall post in a conspicuous area at the entrance, visible from the outside of the center: [-]

a. The hours that emergency medical services will be available in the center; [-] and

b. Where emergency medical services not provided by the center can be obtained during and after the center's regular scheduled hours of operation; [-]

(c) Preventive health services of sufficiently broad scope to provide for the usual and expected health needs of persons in all age groups; [-]

(d) Education in the appropriate use of health services and in the contribution each individual can make to the maintenance of his or her own health; [-]

(e) Chronic illness management; and [-]

(f) Laboratory, x-ray, and treatment services~~shall be~~ provided directly or arranged through other providers.

(3) Supplemental services.

(a) The center shall provide~~additional~~ professional services to complement the basic services provided in accordance with subsection (2) of this section.

~~(b)[the program of the center.]~~ At least two (2) of the following services shall be provided by the center at some time during the scheduled hours of operation, either directly or by contract on site. The center shall establish linkages with~~these~~ supplemental services that[which] currently exist in the service area and that[which] are not provided directly or by contract by the center, including[to include]:

1. Pharmacy: licensed pharmacist;
2. Dentistry: licensed dentist;
3. Optometry: licensed optometrist or ophthalmologist;
4. Midwifery services: certified nurse midwife;
5. Family planning;
6. Nutrition: qualified dietitian or nutritionist;
7. Social service counseling: licensed social worker; ~~and~~
8. Home health: licensed home health agency; and
9. Behavioral health services.

(c) A~~(b)~~ Any center that[which] does not have a linkage agreement with the ~~[above-listed]~~ supplemental services pursuant to[identified under] paragraph (b) of this subsection, but [which] documents a good faith attempt to enter into the linkage agreement, shall be exempt from the linkage agreement requirement.

(4) Extension services.

(a)1. The center may provide primary care services~~on a temporary or regular basis]~~ in locations separate from its permanent facility.

2. The extension locations shall be listed on the licensure application, incorporated by reference in 902 KAR 20:008.

(b) Except for an extension located at a school, each extension shall be staffed with at least:

1. One (1) full-time advanced practice registered nurse or physician assistant; and

2. One (1) physician who is:

a. [Present no less than once in every two (2) week period,][Except in extraordinary circumstances, which shall be documented in the extension's records, present no less than once in every two (2) week period] to provide medical direction, medical care services, consultation, and supervision; and

b. Available through direct telecommunication for consultation,

assistance with medical emergencies, or patient referral.

[3. The extraordinary circumstances shall be documented in the extension's records.]

(c) If a not-for-profit center's extension operates in a school, the extension shall comply with the staffing requirements of KRS 216B.176(3) and (4).

(d) [With the exception of an extension located at a school and operated under an agreement between the center and a board of education pursuant to KRS 216B.176, the extension shall comply with the minimum staffing requirements of Section 3(4) of this administrative regulation.

(e) The center shall have written policies and procedures pertaining to all aspects of the extension service, including:

1. Patient care;
2. Treatment protocols;
3. Patient rights;
4. Provided services;
5. Medical records;
6. Linkage agreements; and
7. Hours of operation and staffing.

(e) [(d)] The extension service shall be located within the primary care center's service area.

(f) [(e)] The center's utilization review program shall include any extension services.

(5) Outreach activities. The center or extension's physician, advanced practice registered nurse, midwife, physician assistant, dentist, or dental hygienist licensed to function with indirect supervision may engage in outreach activities to provide medical service within the primary care center's service areas.

(6) Holding-observation accommodations. If [Utilization of] holding-observation accommodations are maintained by the center, the center shall comply with the following requirements [will be allowed within the limitations outlined below]:

(a) Use of holding-observation [Utilization of these] accommodations shall not exceed twenty-four (24) hour [hours] medical observation or recuperation in anticipation of transfer to an inpatient facility or to the patient's home; [-]

(b) The decision to hold a patient shall be the responsibility of a physician employed directly or under contract with [physician(s) on the medical staff of] the center; and [-]

(c) A physician or a registered nurse shall be on duty at the center while [when] a patient is held in the center's holding-observation accommodations beyond regular scheduled hours.

(7) Plan of care. The center shall establish and periodically update a written plan of care of all patients or [and/or] family units, reflecting staff discussion of all medical and social information obtained relative to the patient and the patient's [his] family.

(8) Telephone screening and referral. The center shall provide telephone screening and referral services for prospective patients after regularly-scheduled hours of operation.

MARY REINLE BEGLEY, Inspector General

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: October 3, 2013

FILED WITH LRC: October 4, 2013 at 4 p.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Policy and Provider Operations
(As Amended at ARRS, December 10, 2013)**

907 KAR 1:180. Freestanding[Alternative] birth center services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 440.170, 42 U.S.C. 1396a, b, d, [EO-2004-726]

NECESSITY, FUNCTION, AND CONFORMITY: [EO-2004-726,

effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.] The Cabinet for Health and Family Services has responsibility to administer the program of Medical Assistance. KRS 205.520(3) empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds [for the provision of medical assistance to Kentucky's indigent citizenry]. This administrative regulation establishes [sets forth] the coverage provisions for services provided by freestanding [alternative] birth centers for which payment shall be made by the Medicaid Program in behalf of both the categorically needy and the medically needy.

Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Enrollee" means a recipient who is enrolled with a managed care organization.

(4) "Freestanding birth center" means a:

(a) Freestanding birth center as defined by 42 U.S.C. 1396d(l)(3)(B); and [and]

(b) Facility that is:

1. Licensed as an alternative birth center in accordance with 902 KAR 20:150; and

2. Accredited by the Commission for the Accreditation of Birth Centers.

(5) "Freestanding birth center services" is defined by 42 U.S.C. 1396d(28) and 42 U.S.C. 1396d(l)(3)(A).

(6) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(7) "Participating freestanding birth center" means a freestanding birth center that is:

(a) Currently enrolled in the Medicaid program pursuant to 907 KAR 1:672;

(b) Currently participating in the Medicaid program pursuant to 907 KAR 1:671;

(c) Licensed in accordance with 902 KAR 20:150; and

(d) Authorized to provide the service in accordance with this administrative regulation.

(8) "Provider" is defined by KRS 205.8451(7).

(9) "Recipient" is defined by KRS 205.8451(9).

(10) "Registered nurse" is defined by KRS 314.011(5).

(11) "Rendering provider" means a provider who:

(a) Provides a service for which reimbursement is:

1. Made to the provider; and

2. Not made to a freestanding birth center; and

(b) Is:

1. A physician who provides a service associated with a freestanding birth center;

2. A physician assistant who provides a service associated with a freestanding birth center;

3. An advanced practice registered nurse who provides a service associated with a freestanding birth center; or

4. A registered nurse who provides a service associated with a freestanding birth center.

Section 2. General Provisions and Requirements. (1) For the department to reimburse for a freestanding birth center service, the service shall:

(a) Be provided:

1. To a recipient; and

2. By a:

a. Participating freestanding birth center that is currently licensed and operating in accordance with 902 KAR 20:150; or

b. Rendering provider;

(b) Be covered in accordance with this administrative regulation; and

(c) Be medically necessary.

(2)(a) A participating freestanding birth center shall comply with:

1. 907 KAR 1:671;
2. 907 KAR 1:672;
3. 902 KAR 20:150; and
4. All applicable state and federal laws.

(b) A rendering provider shall comply with:

1. 907 KAR 1:671;
2. 907 KAR 1:672; and
3. All applicable state and federal laws.

(3)(a) If a participating freestanding birth center or rendering provider receives any duplicate payment or overpayment from the department, regardless of reason, the participating freestanding birth center or rendering provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

(c) Non-duplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d)1. A freestanding birth center shall comply with KRS 205.622.

2. A rendering provider shall comply with KRS 205.622.

Section 3. ~~Services shall be covered only when provided to an eligible Medicaid recipient by a participating alternative birth center which is appropriately licensed and operating in accordance with 904 KAR 20:150. Section 2.] Covered Services. The following services may be provided by a freestanding[alternative] birth center[centers]:~~

(1) Prenatal visits, to include one (1) initial visit and follow-up visits as appropriate;[-]

(2) Standby services, with the rendering provider[medical professional (obstetrician or nurse midwife)] physically present throughout the course of the labor;[-]

(3) Delivery including[-, which includes] the actual delivery, necessary supplies and material for the delivery, and the post-delivery[postdelivery] examination;[-]

(4) Postnatal visits;

(a)[-] Not to exceed two (2); and

(b) Which shall be accomplished within six (6) weeks of the delivery; or[-]

(5) Laboratory services directly related to the provision of a freestanding birth center service[as specified by the Cabinet for Health and Family Services].

Section 4[3]. Records, Reporting and Monitoring. A freestanding birth center shall:

(1) Maintain complete and legible records of services provided and in a manner that ensures the confidentiality of the recipient of the service; and

(2) Provide the records referenced in subsection (1) of this section, upon request, to:

(a) The department;

(b) The Cabinet for Health and Family Services, Office of the Inspector General or its designee;

(c) The Office of the Auditor of Public Accounts or its designee;

(d) The Office of the Attorney General or its designee;

(e) The Centers for Medicare and Medicaid Services or its designee;

(f) The Office of Inspector General of the United States Department of Health and Human Services or its designee; or

(g) The United States Government Accountability Office or its designee.

Section 5. Federal Financial Participation. A provision or requirement established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

(1) Denies federal financial participation for the provision or requirement; or

(2) Disapproves the provision or requirement.

Section 6. Appeal Rights. ~~[(4)]~~ An appeal of a negative action regarding a Medicaid recipient who is:

(1) Enrolled with a managed care organization shall be in accordance with 907 KAR 17:010; or

(2) Not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563[The facility shall maintain complete records of services rendered, and provide to the cabinet the records and reports the cabinet requires for the effective implementation and administration of the service. Facility records shall be available to the Cabinet for Health and Family Services, the United States Department of Health and Human Services, and the Comptroller General, and their representatives or designees for auditing or monitoring purposes].

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 13, 2013

FILED WITH LRC: November 14, 2013 at 11 a.m.

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CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Healthcare Facilities Management

(As Amended at ARRS, December 10, 2013)

907 KAR 1:190. Payments for freestanding[alternative] birth center services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 447.325, 42 U.S.C. 1396a, b, d[-EO 2004-726]

NECESSITY, FUNCTION, AND CONFORMITY: ~~EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.] The Cabinet for Health and Family Services has responsibility to administer the program of Medical Assistance. KRS 205.520(3) empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the Department for Medicaid Services' reimbursement provisions and requirements[sets forth the method for determining amounts payable by the cabinet] for freestanding[alternative] birth center services provided to Medicaid recipients who are not enrolled with a managed care organization[and optional reimbursement provisions for those services when covered by a managed care organization].~~

Section 1. Definitions. (1) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Enrollee" means a recipient who is enrolled with a managed care organization.

(4) "Freestanding birth center" means a:

(a) Freestanding birth center as defined by 42 U.S.C. 1396d(l)(3)(B); and

(b) Facility that is:

1. Licensed as an alternative birth center in accordance with 902 KAR 20:150; and

2. Accredited by the Commission for the Accreditation of Birth Centers.

(5) "Freestanding birth center services" is defined by 42 U.S.C. 1396d(28) and 42 U.S.C. 1396d(l)(3)(A).

(6) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(7) "Participating freestanding birth center" means a freestanding birth center that is:

(a) Currently enrolled in the Medicaid program pursuant to 907 KAR 1:672;

(b) Currently participating in the Medicaid program pursuant to 907 KAR 1:671;

(c) Licensed in accordance with 902 KAR 20:150; and

(d) Authorized to provide the service in accordance with **907 KAR 1:180**~~[this administrative regulation]~~.

(8) "Provider" is defined by KRS 205.8451(7).

(9) "Recipient" is defined by KRS 205.8451(9).

(10) "Registered nurse" is defined by KRS 314.011(5).

(11) "Rendering provider" means a provider who:

(a) Provides a service for which reimbursement is:

1. Made to the provider; and

2. Not made to a freestanding birth center; and

(b) Is:

1. A physician who provides a service associated with a freestanding birth center;

2. A physician assistant who provides a service associated with a freestanding birth center;

3. An advanced practice registered nurse who provides a service associated with a freestanding birth center; or

4. A registered nurse who provides a service associated with a freestanding birth center.

Section 2. General Requirements. (1) For the department to reimburse for a freestanding birth center service, the service shall **meet the requirements established in 907 KAR 1:180, Section 2f:**

(a) Be provided:

1. To a recipient; and

2. By a:

a. Participating freestanding birth center that is currently licensed and operating in accordance with 902 KAR 20:150; or

b. Rendering provider;

(b) Be covered in accordance with 907 KAR 1:180; and

(c) Be medically necessary.

(2)(a) A participating freestanding birth center shall comply with:

1. 907 KAR 1:671;

2. 907 KAR 1:672;

3. 902 KAR 20:150; and

4. All applicable state and federal laws.

(b) A rendering provider shall comply with:

1. 907 KAR 1:671;

2. 907 KAR 1:672; and

3. All applicable state and federal laws.

(3)(a) If a participating freestanding birth center or rendering provider receives any duplicate payment or overpayment from the department, regardless of reason, the participating freestanding birth center or rendering provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(c) Non-duplication of payments and third-party liability shall be in accordance with 907 KAR 1:005.

(d)1. A freestanding birth center shall comply with KRS 205.622.

2. A rendering provider shall comply with KRS 205.622~~[The cabinet shall reimburse participating licensed alternative birth centers for covered services rendered eligible Medicaid recipients when the services are provided in accordance with the provisions of 902 KAR 20:150, Alternative birth centers].~~

[Section 3.] Reimbursement. (1)(a) The department shall reimburse a professional fee to a rendering provider for a prenatal visit, a standby service, or a postnatal visit at the lesser of:

1. The rendering provider's usual and customary charge for the service;

2. The reimbursement for the service pursuant to 907 KAR 3:010 if the rendering provider is a physician; or

3. Seventy-five (75) percent of the reimbursement for the service pursuant to 907 KAR 3:010 if the rendering provider is:

a. An advanced practice registered nurse;

b. A physician assistant; or

c. A registered nurse.

(b) The department shall:

1. Reimburse for no more than two (2) postnatal visits per recipient; and

2. Not reimburse for a postnatal visit that occurs after six (6) weeks have lapsed since the delivery.

(c) The department's reimbursement of a professional fee to a rendering provider referenced in this subsection shall be separate from and in addition to the reimbursement referenced in subsection (2) of this section.

(2)(a) The department shall reimburse a freestanding birth center:

1.(a)] Twenty-five (25) dollars for referring a recipient to an inpatient hospital for delivery services if the freestanding birth center determined before providing delivery-related services that the recipient's delivery was complicated and needed to be handled in an inpatient hospital;

2.(b)] \$156 for:

a.(1.) Providing delivery-related services to a recipient; and

b.(2.) Determining, after providing delivery-related services to a recipient, that the recipient's delivery was complicated and needed to be handled in an inpatient hospital; or

3.(c)] \$1,557 for services related to a complete delivery that occurred at the freestanding birth center~~2. Payments. (1) Prenatal visits, standby services and postnatal visits billed by a birthing center shall be paid at the lower of the billed charge or seventy-five (75) percent of the upper limit for physicians for the same services provided on an outpatient basis when services are provided by the medical professional (i.e., physician or nurse-midwife who is an appropriately licensed and certified advanced registered nurse practitioner). Laboratory services shall be paid at the lower of the billed charges or the upper limit for physicians.~~

(2) The delivery fee payable to the center shall be the facility's usual and customary rate not to exceed \$365 per delivery. This fee is inclusive of all costs associated with the delivery, including the professional fee for the delivery, necessary supplies and materials, and the post delivery examination].

(b)(d)] The department's reimbursement to a freestanding birth center referenced in this subsection shall be separate from and in addition to the reimbursement referenced in subsection (1) of this section.

(3)(a) The department's reimbursement~~[Program payment]~~ shall be considered payment in full for all services, supplies, and devices provided to a recipient.

(b)1. A freestanding birth center shall not bill a recipient or party other than the department for a service provided to the recipient if the service was covered by the department.

2. A rendering provider shall not bill a recipient or party other than the department for a service provided to the recipient if the service was covered by the department.

(4)(a) A managed care organization's reimbursement shall be considered payment in full for all services, supplies, and devices provided to an enrollee.

(b)1. A freestanding birth center shall not bill an enrollee or party other than the enrollee's managed care organization for a service provided to the enrollee if the service was covered by the managed care organization.

2. A rendering provider shall not bill an enrollee or party other than the managed care organization for a service provided to the enrollee if the service was covered by the managed care organization.

Section 4. Not Applicable to Managed Care Organizations. (1) A managed care organization may elect to reimburse in accordance with this administrative regulation for a service or item covered pursuant to 907 KAR 1:180 and this administrative regulation.

(2) A managed care organization shall not be required to reimburse the same amount as established in this administrative regulation for a service or item covered pursuant to 907 KAR 1:180 and this administrative regulation.

Section 5. Federal Financial Participation. A provision or requirement established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

(1) Denies federal financial participation for the provision or requirement; or

(2) Disapproves the provision or requirement[during the visit billed, and no additional amounts may be requested from the recipient, the Medicaid program, or any other source. This shall not, however, preclude the collection of appropriate amounts from liable third party sources which shall serve to reduce the liability of the cabinet].

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: November 13, 2013

FILED WITH LRC: November 14, 2013 at 11 a.m.

CONTACT PERSON: Tricia Orme, Office of Legal Services,
275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone
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**ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS**

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Amended After Comments)**

704 KAR 3:305. Minimum requirements for high school graduation.

RELATES TO: KRS 156.160(1)(a), (d), 158.142, 158.645, 158.6451

STATUTORY AUTHORITY: KRS 156.070, 156.160(1)(a), (d), 158.142

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the courses of study for the different grades and the minimum requirements for high school graduation. **KRS 158.142(3)(b) requires the board to promulgate administrative regulations establishing requirements for early graduation from high school.** The content standards for the courses of study are established in the Kentucky core academic standards incorporated by reference in 704 KAR 3:303. This administrative regulation establishes the minimum requirements necessary for entitlement to a high school diploma.

Section 1. Definitions. (1) “Early graduation” means meeting the competency-based criteria outlined in **this administrative regulation[Section 9 of this administrative regulation]** and doing so in three (3) academic years or less.

(2) “Early Graduation Certificate” means a certificate, awarded by the district and signed by the principal and superintendent, that shall make the recipient eligible for a scholarship award equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level, to be used at a Kentucky public two (2) year community and technical college or a Kentucky four (4) year public or non-profit independent institution accredited by the Southern Association of Colleges and Schools.

Section 2. Each student in a common school shall have a total of at least twenty-two (22) credits for high school graduation. Those credits shall include the content standards as provided in the Kentucky core academic standards, incorporated by reference in 704 KAR 3:303. Additional standards-based learning experiences shall align to the student’s individual learning plan and shall consist of standards-based content. The required credits and demonstrated competencies shall include the following minimum requirements:

(1) Language arts - four (4) credits (English I, II, III, and IV) to include the content contained in the Kentucky core academic standards for English and language arts **and comply with the following:**

(a) Language arts shall be taken each year of high school; **and[;]**

(b) If a student does not meet the college readiness benchmarks for English and language arts as established by the Council on Postsecondary Education in 13 KAR 2:020, the student shall take an English and language arts transitional course or intervention, which is monitored to address remediation needs, before exiting high school;

(2) Social studies - three (3) credits to include the content contained in the Kentucky core academic standards for social studies;

(3) Mathematics - three (3) credits to include the content contained in the Kentucky core academic standards for mathematics and include the following minimum requirements:

(a) Algebra I, Geometry, and Algebra II. An integrated, applied, interdisciplinary, occupational, or technical course that prepares a student for a career path based on the student’s individual learning plan may be substituted for a traditional Algebra I, Geometry, or Algebra II course on an individual student basis if

the course meets the content standards in the Kentucky core academic standards, incorporated by reference in 704 KAR 3:303;

(b) A mathematics course or its equivalent as determined by the district shall be taken each year of high school to ensure readiness for postsecondary education or the workforce;

(c) Any mathematics course other than Algebra I, Geometry, or Algebra II shall be counted as an elective; and

(d) If a student does not meet the college readiness benchmarks for mathematics as established by the Council on Postsecondary Education in 13 KAR 2:020, the student shall take a mathematics transitional course or intervention, which is monitored to address remediation needs, before exiting high school;[;]

(4) Science - three (3) credits that shall incorporate lab-based scientific investigation experiences and include the content contained in the Kentucky core academic standards for science;

(5) Health - one-half (1/2) credit to include the content contained in the Kentucky core academic standards for health;

(6) Physical education - one-half (1/2) credit to include the content contained in the Kentucky core academic standards for physical education;

(7) History and appreciation of visual and performing arts (or another arts course which incorporates this content) - one (1) credit to include the content contained in the Kentucky core academic standards for arts and humanities or a standards-based specialized arts course based on the student’s individual learning plan;

(8) Academic and career interest standards-based learning experiences - seven (7) credits including four (4) standards-based learning experiences in an academic or career interest based on the student’s individual learning plan; and

(9) Demonstrated performance-based competency in technology.

Section 3.[2.] (1) A local board of education may substitute an integrated, applied, interdisciplinary, occupational, technical, or higher level course for a required course if the alternative course provides rigorous content and addresses the same applicable components of 703 KAR 4:060.

(2) For students with disabilities, a local board of education may substitute a functional, integrated, applied, interdisciplinary, occupational, technical, or higher level course for a required course if the alternative course provides rigorous content and addresses the same applicable components of 703 KAR 4:060. These shall be based on grade-level content standards and may be modified to allow for a narrower breadth, depth, or complexity of the general grade-level content standards.

Section 4.[3.] (1) A district shall implement an advising and guidance process throughout the middle and high schools to provide support for the development and implementation of an individual learning plan for each student. The plan shall include career development and awareness and specifically address Vocational Studies Academic Expectations 2.36-2.38 as established in Academic expectations, 703 KAR 4:060.

(2) A district shall develop a method to evaluate the effectiveness and results of the individual learning plan process. The evaluation method shall include input from students, parents, and school staff. As part of the evaluation criteria, the district shall include indicators related to the status of the student in the twelve (12) months following the date of graduation.

(3) A feeder middle school and a high school shall work cooperatively to ensure that each student and parent receives information and advising regarding the relationship between education and career opportunities. Advising and guidance shall include information about financial planning for postsecondary education.

(4) A school shall maintain each student’s individual learning plan. The individual learning plan shall be readily available to the student and parent and reviewed and approved at least annually

by the student, parents, and school officials.

(5) Beginning with a student's eighth grade year, the individual learning plan shall set learning goals for the student based on academic and career interests and shall identify required academic courses, electives, and extracurricular opportunities aligned to the student's postsecondary goals. The school shall use information from the individual learning plans about student needs for academic and elective courses to plan academic and elective offerings.

(6) Beginning with the graduating class of 2013, the development of the individual learning plan for each student shall begin by the end of the sixth grade year and shall be focused on career exploration and related postsecondary education and training needs.

Section 5.[4-] (1) A board of education may award credit toward high school graduation for satisfactory demonstration of learning based on content standards described in the Kentucky core academic standards, incorporated by reference in 704 KAR 3:303, and a rigorous performance standards policy established by the board of education. A school shall establish performance descriptors and evaluation procedures to determine if the content and performance standards have been met.

(2) A board of education shall award credit toward high school graduation based on:

(a) A standards-based Carnegie unit credit that shall consist of at least 120 hours of instructional time in one (1) subject; or

(b) A standards-based performance-based credit, regardless of the number of instructional hours in one (1) subject.

(3) A local board of education which has chosen to award standards-based performance-based credit shall award a standards-based credit earned by a student enrolled in grade 5, 6, 7, or 8 if:

(a) The content of the course is the same that is established in the Kentucky core academic standards, incorporated by reference in 704 KAR 3:303; and

(b) The district has criteria in place to make a reasonable determination that the middle level student is capable of success in the high school course.

(4) A board of education which has chosen to award standards-based performance-based credit shall establish a policy for a performance-based credit system that includes:

(a) The procedures for developing performance-based credit systems and for amending the system;

(b) The conditions under which each high school may grant performance-based credits and the related performance descriptors and assessments;

(c) Objective grading and reporting procedures;

(d) Content standards as addressed in 704 KAR 3:303, Required core academic standards, and 703 KAR 4:060, Academic expectations;

(e) The extent to which state-provided assessments will be used in the local performance-based credit system;

(f) The ability for students to demonstrate proficiency and earn credit for learning acquired outside of school or in prior learning; and

(g) Criteria to ensure that internships, cooperative learning experiences, and other learning experiences in the school and community are:

1. Designed to further student progress towards the individual learning plan;

2. Supervised by qualified instructors; and

3. Aligned with state and local content and performance standards.

(5) A board of education may award standards-based, performance-based credit toward high school graduation for:

(a) Standards-based course work that constitutes satisfactory demonstration of learning in any high school course, consistent with Section 1 of this administrative regulation;

(b) Standards-based course work that constitutes satisfactory demonstration of learning in a course for which the student failed to earn credit when the course was taken previously;

(c) Standards-based portfolios, senior year, or capstone

projects;

(d) Standards-based online or other technology mediated courses;

(e) Standards-based dual credit or other equivalency courses; or

(f) Standards-based internship, cooperative learning experience, or other supervised experience in the school or the community.

(6) Each local board of education shall maintain a copy of its policy on high school graduation requirements. This policy shall include a description of how the requirements address KRS 158.6451(1)(b) and 703 KAR 4:060.

Section 6.[5-] (1) A student who satisfactorily completes the requirements of this administrative regulation and additional requirements as may be imposed by a local board of education or meets the requirements for early graduation as outlined in Section 9 of this administrative regulation shall be awarded a graduation diploma.

(2) The local board of education shall award the diploma.

Section 7.[6-] This administrative regulation shall not be interpreted as prohibiting a local governing board, superintendent, principal, or teacher from awarding special recognition to a student.

Section 8.[7-] Beginning with the graduating class of 2013, if the severity of an exceptional student's disability precludes a course of study that meets the high school graduation requirements established in Section 1 of this administrative regulation leading to receipt of a high school diploma, an alternative course of study shall be offered. (1) This course of study shall be based upon student needs and the provisions specified in 704 KAR 3:303, Required core academic standards, and shall be reviewed at least annually.

(2) A student who completes this course of study shall receive an alternative high school diploma to be awarded by the local board of education consistent with the graduation practices for all students.

(3) A local board of education may establish policies to award an alternative high school diploma to a former student who has received a certificate or certificate of attainment.

Section 9. (1) Beginning in the 2014 -2015 academic year, only students who meet the criteria outlined in this section shall be eligible for early graduation. Those students who meet the criteria for early graduation shall receive from the school district a diploma and an Early Graduation Certificate. Students wishing to graduate early shall indicate that intent to the school principal at the beginning of grade 9 or as soon as the intent is known, but within the first thirty (30) school days of the academic year in which they wish to graduate.

(a) A student's intent to graduate early shall be entered into the student information system by the school district by October 1 of the year in which the student makes the declaration.

(b) Students working toward early graduation and receipt of a corresponding Early Graduation Certificate shall be supported by development and monitoring of an individual learning plan to support their efforts[All schools participating in early graduation programming shall follow the requirements for alternative programming outlined in 704 KAR 19:002].

(2) To graduate early and earn an Early Graduation Certificate, a student shall[The criteria students shall meet to graduate early and earn an Early Graduation Certificate are]:

(a) Score proficient on the end of course exams required by the Kentucky Board of Education in 703 KAR 5:200; and

(b) Meet the college readiness exam benchmarks as set by the Council on Postsecondary Education in 13 KAR 2:020 for placement in credit-bearing courses without the need for remediation.

(3) A student who has indicated an intent to graduate early may participate in the student's[shall be permitted their] state administration of the college readiness exam prior to the junior year, if needed.

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(5).

TERRY HOLLIDAY, PH.D., Commissioner of Education
ROGER L. MARCUM, Chairperson

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation sets the minimum requirements for high school graduation and creates requirements for early high school graduation.

(b) The necessity of this administrative regulation: The regulation sets the minimum requirements for high school graduation and sets consistent standards for early graduation from high school pursuant to KRS 158.142.

(c) How this administrative regulation conforms to the content of the authorizing statute: The Kentucky Board of Education has the statutory authority under KRS 156.070 to set these requirements. SB 61 in the 2013 General Assembly created KRS 158.142 to implement Early Graduation. This amendment to the existing regulation is required to implement KRS 158.142.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendment to this regulation sets the minimum requirements and standards for early graduation from high school.

(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 creates Section 9, which contains the requirements for Early Graduation required by KRS 158.142.

(b) The necessity of the amendment to this administrative regulation: KRS 158.142 requires that an Early Graduation Program be established, and requires the Kentucky Board of Education to promulgate administrative regulations establishing the criteria for early graduation.

(c) How the amendment conforms to the content of the authorizing statute: The criteria for early graduation align with the requirements of KRS 158.142.

(d) How the amendment will assist in the effective administration of the statutes: KRS 158.142 can be implemented through the criteria for early graduation established in this regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky public school districts and high school students who intend to graduate early.

(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 district will need to: a) permit prospective early graduates to file an intent to graduate early; b) monitor students who choose this pathway; c) allow those students to take the ACT earlier than their junior year; and d) provide a certificate when students meet the performance expectations established by the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Per KRS 158.142, the Early Graduation Scholarship

award amount shall be equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level. This amount has not yet been determined for the 2015-2016 school year. The current (2013-14 school year) statewide per pupil guaranteed base funding level is \$3,827.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The student who graduates early in compliance with this regulation will receive their fourth year of Kentucky Educational Excellence Scholarship money and one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding for use as a scholarship to any two (2) or four (4) year Kentucky institution of higher education the academic year immediately following their early graduation. The district receives one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding despite the fact that the student is no longer enrolled in the district.

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

(a) Initially: Per KRS 158.142, the Early Graduation Scholarship award amount shall be equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level. This amount has not yet been determined for the 2015-2016 school year. The current (2013-14 school year) statewide per pupil guaranteed base funding level is \$3,827. The agency will also have administrative costs associated with the implementation of this amended regulation through staff time to develop guidance and technical assistance to support the implementation of the amended regulation. (Estimated twenty (20) percent of assigned staff time – forty-five (45) days).

(b) On a continuing basis: Per KRS 158.142, the Early Graduation Scholarship award amount shall be equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level. This amount has not yet been determined for the 2015-2016 school year. The current (2013-14 school year) statewide per pupil guaranteed base funding level is \$3,827. The agency will also have administrative cost associated with the implementation of this amended regulation through staff time to develop guidance and technical assistance to support the implementation of the regulation. (Estimated ten (10) percent of assigned staff time – twenty-five (25) days).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: SEEK funds will be used for the scholarship award amount per the requirements of KRS 158.142. Existing agency funds will be used to offset staff costs.

(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 amendment will not require any new funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There will be no fees established as a result of this amendment.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) 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 public school districts and high school students who intend to graduate early. Early graduation impacts a limited number of students, and currently impacts a small number of districts and schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.142 and KRS 156.070.

(3) 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. Districts will receive one-half (1/2) of the SEEK funds the attendance of the early graduate would have generated during the

next school year. Therefore, districts are receiving funds to educate a student who is no longer enrolled in their district.

(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 due to this amendment.

(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 due to this amendment.

(c) How much will it cost to administer this program for the first year? Per KRS 158.142, the Early Graduation Scholarship award amount shall be equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level. This amount has not yet been determined for the 2015-2016 school year. The current (2013-14 school year) statewide per pupil guaranteed base funding level is \$3,827. The agency will also have administrative costs associated with the implementation of this amended regulation through staff time to develop guidance and technical assistance to support the implementation of the regulation. (Estimated twenty (20) percent of assigned staff time – forty-five (45) days).

(d) How much will it cost to administer this program for subsequent years? Per KRS 158.142, the Early Graduation Scholarship award amount shall be equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level. This amount has not yet been determined for the 2015-2016 school year. The current (2013-14 school year) statewide per pupil guaranteed base funding level is \$3,827. The agency will also have administrative cost associated with the implementation of this amended regulation through staff time to develop guidance and technical assistance to support the implementation of the regulation. (Estimated ten (10) percent of assigned staff time – twenty-five (25) days)

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:

PROPOSED AMENDMENTS

GENERAL GOVERNMENT CABINET
Kentucky Board of Chiropractic Examiners
(Amendment)

201 KAR 21:015. Code of ethical conduct and standards of practice.

RELATES TO: KRS 312.019(9)(a)

STATUTORY AUTHORITY: KRS 312.019(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9)(a) ~~authorizes[provides—that] the board to promulgate[may adopt] and [from time to time] amend administrative regulations for the practice of chiropractic, including adopting[and that it may adopt] a code of ethical conduct[governing the practice of chiropractic]. This administrative regulation delineates[is to delineate] the minimum standards of professional and ethical conduct and practice which a licensee[all licensees] shall maintain.~~

Section 1. Each licensee~~[All licensees]~~ shall abide by the following minimum standards of professional and ethical conduct:

(1)~~[A licensee shall keep in confidence whatever he may learn about a patient in the discharge of professional duties. Information shall be divulged by him if required by law or authorized by a patient.~~

(2) ~~A licensee shall render care that is consistent with treatment and care that would be rendered by a reasonably prudent chiropractor licensed in the Commonwealth of Kentucky to each patient and shall give a candid account of a patient's condition to the patient or to those responsible for the patient's care.~~

(3) ~~A licensee shall give timely notice to his patient or to those responsible for a patient's care when he withdraws from a case so that another chiropractor may be obtained.~~

(4) ~~A licensee shall not abandon a patient.~~

(5) ~~A licensee shall practice his profession in accordance with the provisions of KRS Chapter 312 and the board's administrative regulations.~~

(6) ~~A licensee shall not advertise the licensee's[his] services except as provided by 201 KAR 21:065.~~

(2)~~(7) A licensee shall inform the patient of his or her clinical diagnosis, treatment plan, and expected outcome of treatment prior to the onset of care.~~

(8) ~~A licensee shall not commit an act of sexual misconduct, or sexual harassment, or commit any act punishable as a sexual offense.~~

(3)~~(9) A licensee shall refrain from chemical or substance abuse. The chemical or substance abuse shall[does] not have to take place in a chiropractic office for the board to take action against a licensee.~~

(4)~~(a)(10) Division of a[any] professional fee shall not be made, except upon the basis of actual services rendered.~~

(b) Unless prohibited by law, each licensed chiropractor of a business entity shall be allowed to pool or apportion fees received in accordance with a business agreement.

(5)(a)(11) A licensee shall not pay or receive compensation for the referral or unlawful solicitation of patients.

(b) A licensee, employee of a licensee, agent of a licensee, contractor of a licensee, or anyone acting in concert with the licensee shall not provide monetary compensation or other consideration of value to an individual in order to induce or entice the individual to commence a chiropractor-patient relationship or continue as a patient of the licensee.

(6)(12)(a) Telemarketing is permitted only if the telemarketing is nontargeted, taken from a general list of phone numbers, and if[does] not violating[violate] the state's no-call provisions.

(b) A chiropractor shall not contact or cause an accident victim to be contacted by the chiropractor's[his] employee, agent, contractor, telemarketer, or anyone acting in concert with the chiropractor[in violation of the Consumer Protection Laws of the

Commonwealth of Kentucky].

(c) The licensee shall be held responsible for the content of any contact made by a telemarketer, agent, employee, or contractor representing the chiropractor.

(7) A licensee shall report to the board any reasonably suspected violation of KRS Chapter 312 or 201 KAR Chapter 21 by another licensee or applicant within thirty (30) days.

(8) A licensee shall report to the board any civil judgment, settlement, or civil claim made against the licensee within thirty (30) days.

(9) A licensee shall report to the board any discipline from another state licensing board within thirty (30) days of receiving notice of final disciplinary action.

Section 2. Each licensee shall abide by the following minimum standards of practice:

(1) A licensee shall keep in confidence whatever the licensee may learn about a patient in the discharge of professional duties. Information shall be divulged by the licensee only if required by law or authorized by a patient.

(2) A licensee shall render care to each patient that is consistent with treatment and care that would be rendered by a reasonably prudent chiropractor licensed in the Commonwealth of Kentucky and shall give a candid account of a patient's condition to the patient, or to those responsible for the patient's care.

(3) A licensee shall inform the patient of the licensee's clinical diagnosis, treatment plan, and expected outcome of treatment prior to the onset of care.

(4) A licensee shall give timely notice to the licensee's patient or to those responsible for a patient's care if the licensee withdraws from a case so that the patient may obtain another chiropractor.

(5) A licensee shall not abandon a patient.

(6) A licensee shall practice the licensee's profession in accordance with the provisions of KRS Chapter 312 and the board's administrative regulations.

Section 3. (1) Each licensee shall cooperate with the board by:
(a) Furnishing any papers or documents requested by the board;

(b) Furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

(c) Appearing before the board at the time and place designated; and

(d) Properly responding to a subpoena issued by the board.

(2) A licensee shall comply with an order issued by the board.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 9:15 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-

8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the code of ethical conduct and standards of practice for Kentucky licensed chiropractors.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the code of ethical conduct and standards of practice for Kentucky licensed chiropractors.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019(9)(a) authorizes the board to amend administrative regulations to establish a code of ethical conduct governing the practice of chiropractic.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the code of ethical conduct and standards of practice for Kentucky licensed chiropractors.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation makes the current requirements more clear by dividing the regulation into the code of ethical conduct and the standards of practice. The amendments also clarify the current standards.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to clarify the requirements, in an effort to place licensees on notice.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation conforms to the content of the authorizing statute by clearly defining the code of ethical conduct and standards of practice.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the ethical code and standards of practice placing the licensees on better notice of requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the approximately 1135 licensed doctors of chiropractic in the Commonwealth of Kentucky.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees must conduct their practice within the ethical code and standards of practice outlined in this regulation.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will clarify the ethical code and standards of practice, making compliance easier for the licensee.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied since this regulation applies equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.019(9)

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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

Revenues (+/-):

Expenditures (+/-):

Other Explanations:

GENERAL GOVERNMENT CABINET Kentucky Board of Chiropractic Examiners (Amendment)

201 KAR 21:041. Licensing; standards, fees.

RELATES TO: KRS 312.085, 312.095, 312.145, 312.175

STATUTORY AUTHORITY: KRS 312.019, 312.085, 312.095, 312.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation establishes the procedures relating to application for licensure, license renewal, and fees.

Section 1. Initial Application. An applicant for initial licensure shall submit to the board:

- (1) A completed New Licensee Application; and
- (2) A nonrefundable application fee of \$350.

Section 2. Licenses.[(4)] Each license by the board shall:

(1) [(a)] Set forth the:

(a) [1- The] Name of the issuing board;

(b) [2- The] Name of the licensee;

(c) [3- The] Number of license; and

(d) [4- The] Date of the license issuance;

(2) [(b)] Be signed by a minimum of three (3) members of the board; and

(3) [(c)] Have the seal of the board affixed.

Section 3. License Renewal. (1)(a) Each licensee of the board shall:

1. Annually renew the license on or before the first day of March; and

2. Submit the appropriate application for license renewal to the board as required by paragraph (b) of this subsection.

(b)1. A licensee seeking active status shall:

a. Submit a completed Application for Annual License Renewal; and

b. Pay a renewal fee of \$250.

2. A licensee seeking inactive status shall:

a. Submit a completed Annual Inactive License[Non-Resident] Renewal Application; and

b. Pay a renewal fee of seventy-five (75) dollars.

(2)(e) The amount of the restoration fee established by KRS 312.175(2) and (4) shall be \$250 per year, or any part of a year.

(3)(d) Continuing education requirements.

(a)[4-] Each active licensee shall complete twelve (12) hours of board-approved continuing education, with:

1.[a-] A minimum of six (6) hours obtained within Kentucky;

2.[b-] No more than eight (8) hours completed in a day; and

3.[e-] Proof of completion submitted with the Application for Annual License Renewal[renewal application].

(b)[2-] A new licensee shall complete a two (2) hour jurisprudence course, provided by the board, prior to the first license renewal. The course shall account for two (2) of the twelve (12) hours of continuing education required by subparagraph 1 of this paragraph.

(c) An inactive licensee may renew the inactive license without meeting the continuing education requirements required by this subsection[(2) The continuing education program shall be either:

(a) A post graduate course of study at or sponsored by a chiropractic college accredited by the Council on Chiropractic Education or its successors; or

(b) A continuing education program approved by the board, or a committee designated by the board to act between sessions of the board.

1. The continuing education program shall be:

a. Sponsored by a national or state chartered organization of chiropractors; and

b. Open to all doctors of chiropractic in Kentucky who desire to attend.

2. The instructors and speakers shall be in the field of chiropractic, chiropractic education, or allied sciences.

3. The programs to be presented shall contain subjects of clinical benefit to licensees and on a postgraduate level of education.

(3) The sponsoring party of a proposed educational program for license renewal shall apply for approval of the program prior to its presentation by providing the following information to the board:

(a) The name of the course;

(b) The name of the sponsoring organization;

(c) The objective of the program;

(d) The number of hours over which the educational program will be presented and the dates presented;

(e) The names of the instructors and speakers and the name and address of the institution with which they are associated, if applicable;

(f) The instructors' or speakers' educational background and other relevant qualifications; and

(g) The name and address of the person authorized to certify attendance.

(4) The educational program may be monitored by an officer of the board, the field coordinator of the board, or a person designated by the president of the board.

(5)(a) A proposed program shall be submitted to the board for approval at least sixty (60) days prior to the date of the presentation.

(b) The board, or a designee of the board to act between meetings of the board, shall give written notification of the board's approval or disapproval of the program to the sponsoring party not more than thirty (30) days after receiving the proposed educational program.

(c) ~~Within thirty (30) days of completion of the program, the sponsoring party shall submit to the board a written certification of:~~

1. ~~The names and license numbers of the licensees in attendance at the program;~~

2. ~~The sessions attended by each licensee; and~~

3. ~~The number of hours of each session attended.~~

(6)(a) ~~If the licensee is in active practice but is not in active practice in Kentucky and does not intend to practice in Kentucky during the renewal period, the licensee shall meet the educational requirements of the state or jurisdiction in which the licensee is practicing].~~

Section 4. Activation of an inactive license. (1)[(b)] To activate an inactive license, a licensee[who has been in active practice outside Kentucky] shall submit:

(a)[4-] A completed Application for Activation or [Reinstatement of Kentucky License;

(b)[2-] The renewal fee required by Section 3(1)(b) of this administrative regulation[subsection (1)(b) of this section];

(c)[3-] Proof that the licensee has met the continuing education requirements established by Section 3(3) of this administrative regulation[the state or jurisdiction in which the licensee has been engaged in active practice]; and

(d)[4-] License verification from each state or jurisdiction from which the licensee has held a license.

(2)[(7)(a) ~~An inactive licensee, who is not in active practice outside Kentucky, may renew the inactive license without meeting the continuing education requirements required by Section 3(1)(d)1 of the administrative regulation.~~

(b) To activate an inactive license, the licensee shall submit:

1. ~~A completed Application for Activation/Reinstatement of Kentucky License;~~

2. ~~The renewal fee required by subsection (1)(b) of this section;~~

3. ~~Proof that the licensee has obtained twelve (12) hours of continuing education credit for each year the license was inactive; and~~

4-] If the licensee was inactive for more than four (4) years, proof of successfully passing the Special Purposes Examination for Chiropractic given by the National Board of Chiropractic Examiners within the past six (6) months shall be submitted to the board.

Section 5. Denial or Refusal of License. The board may deny or refuse to renew a license if an applicant or licensee:

(1) Has a conviction for a felony or violation of any law involving moral turpitude; or

(2) Violates any of the provisions of KRS Chapter 312, or 201 KAR Chapter 21.

Section 6.[4-] Change of Address. Each licensee shall notify the board within ten (10) days of each change of mailing address or place of business.

Section 7.[5-] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "New Licensee Application", November 2009;

(b) "Application for Annual License Renewal", November 2009;

(c) "Annual Inactive[Non-Resident] License Renewal Application", 2013[2009]; and

(d) "Application for Activation or [Reinstatement of Kentucky License", 2013[2007].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Chiropractic Examiners, 209 South Green Street, Glasgow, Kentucky 42142, Monday through Friday, 8 a.m. to 4:30 p.m.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 9:30 a.m., local time, at the Kentucky Board of Chiropractic Examiners, 209 South Green Street, Glasgow,

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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies the procedures relating to application for licensure, license renewal, license activation and fees for practitioners of chiropractic in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: The necessity of this regulation is to ensure that applicants are placed on notice as to the proper procedures and fees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is given the authority by statute to promulgate administrative regulations to ensure regulation of applicants for licensure and to set fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which applicants apply for licensure and licensees renew or activate their licenses.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation updates the manner in which applicants apply for licensure and licensees renew or activate their licenses.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to update and clarify the manner in which application is made to the Board for new licenses and for renewal.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by setting forth the procedures and fees for application and renewal thereby placing the public on notice.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the manner in which applications are made to the Board and licenses are renewed which will reduce the amount of time the Board's staff spends answering these basic questions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation directly impacts the approximately sixty-five (65) annual licensure applicants and 1,135 licensees in the Commonwealth of Kentucky.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees are required to complete the applications and pay the fees associated with initial licensure and renewal or reinstatement as 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): The initial application fee is \$350. The annual renewal fee is \$250. The annual inactive licensure fee is seventy-five (75) dollars. The restoration fee is \$250.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The applicants for initial licensure and those who are seeking inactive status or renewal are put on notice of specific requirements for obtaining and maintaining licensure by incorporating the appropriate forms and referencing the appropriate fees.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation does not directly or indirectly increase any existing fees for licensure and renewal.

(9) TIERING: Is tiering applied? Tiering was applied. Licensees who are renewing active licenses are charged more money than licensees with inactive licenses as they are making money by actively practicing chiropractic with those licenses.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 312.019, 312.085, 312.095, 312.175

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners
(Amendment)

201 KAR 21:051. Board Hearings.

RELATES TO: KRS 312.150,~~[312.155,]~~ 312.160, 312.163

STATUTORY AUTHORITY: KRS 312.019(5), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.109(5) authorizes the board to enforce and investigate violations. KRS 312.019(9) authorizes the board to promulgate administrative regulations consistent with KRS Chapter 312, governing the practice of chiropractic. KRS 312.150 provides for disciplinary action to be taken against a licensee. KRS 312.160 provides a right to an appeal for a licensed person disciplined after a hearing. This administrative regulation establishes procedural guidelines for board hearings and the processing of complaints against a licensee[licensees].

~~Section 1. Definitions. (1) "Complaint" means an allegation alleging misconduct that might constitute a violation of KRS Chapter 312 or the administrative regulations promulgated thereunder.~~

~~(2) "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of a notice and complaint.~~

Section 2.] Complaints and Investigations. (1) A complaint may be made by any person, organization, or entity. A complaint made by a person, organization, or entity shall be in writing and shall be signed by the person offering the complaint. The complaint shall contain:

(a) The name, phone number, and address of the person making the charge and the name and address of the place of business of the person or persons against whom charges are made.

(b) A clear and concise description of the issues of fact.

(2) Upon receipt of a complaint against a licensee, the board shall send a copy of the complaint to the licensee for a response. The complaint shall be sent to the last known address of the licensee that the board has on file. The licensee shall file a response within twenty (20) days from the date of the board's letter. The board shall review the complaint and the licensee's response before it ~~determines~~[determine] whether the nature and quality of the charges warrant dismissal, further investigation, or the initiation of a hearing. In making its determination, the board shall consider whether the charges if proven would warrant sanction by the board.

(3) The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its own investigation.

(4) The filing of formal charges shall require the affirmative vote of a majority of the board.

(5)(a) If the board finds that allegations against a licensee are insufficient for initiation of a formal disciplinary procedure, it shall dismiss the matter and notify all interested parties.

(b) If the board determines that disciplinary proceedings are appropriate, the board shall issue a notice of disciplinary action and inform the licensee of the following:

1. The specific reason for the board's action, including the:

a. Statutory or regulatory violation;

b. Factual basis on which the disciplinary action is based; and

c. Penalty to be imposed.

2. The licensee may appeal the disciplinary action to the board.

An appeal shall be made within twenty (20) days of the date of the board's notice.

a. A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. This request shall be sent to the Board of Chiropractic Examiners by mail to P.O. Box 183, Glasgow, Kentucky 42142 or by delivery to 905 South Green Street,

Glasgow, Kentucky 42141.

~~b. If the request for a hearing is not timely filed, the notice of disciplinary action shall be effective upon the expiration of the time for the licensee to request a hearing[set the matter for hearing at a future meeting of the board and shall notify the licensee of the charges against him and the time and place of the hearing. The notice shall set forth with reasonable particularity the facts constituting the alleged offense and shall state the statutes or administrative regulations of the board which are applicable to the charge. The notice of the charges shall be served upon the respondent licensee not less than twenty (20) days prior to the hearing either personally or by mailing a copy thereof by certified mail, to the respondent licensee's address last known to the board].~~

(c) The board ~~may~~[is also entitled to] resolve the matter informally through mediation or negotiation. Any agreed order reached through mediation or negotiation shall be approved by the board and signed by the individual who is the subject of the complaint, the individual's attorney, and the chair of the board.

Section 2.[3.] (1) The hearing shall be held in accordance with KRS Chapter 13B.

(2) The respondent may be entitled to a reasonable continuance of the hearing date, for good cause, as recommended to the board by the hearing officer.

(3) The board shall keep a record of the hearing.

(4) It shall take a majority of the board to sustain the charges against the respondent licensee. The hearing officer shall issue a recommended order pursuant to KRS Chapter 13B, which the board shall consider before issuing a final order.

(5) If the board sustains some or all of the charges, the board shall by majority vote establish the sanction under law which it ~~finds~~[deems] warranted. The order of the board shall be mailed to the respondent by certified mail, return receipt requested.

Section 3. Pursuant to KRS 312.160,[4-] the respondent may, within thirty (30) days of receipt of the order, appeal to the Franklin Circuit Court. In the absence of an appeal, the order of the board shall be final at the expiration of the thirty (30) day period.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 10:00 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for disciplinary action to be taken against a licensee. This administrative regulation establishes

procedural guidelines for board hearings and the processing of complaints against licensees.

(b) The necessity of this administrative regulation: The necessity of this regulation is to allow for disciplinary action to be taken against a licensee and ensure that licensees are placed on notice as to the proper guidelines and process.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019 (5) gives the board authority to regulate the practice of chiropractic and enforce the administrative regulations of the board. It also gives the board the authority to cause the prosecution of persons violating the administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which disciplinary action is taken against a licensee.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation clarifies the process by which the board notifies a licensee of disciplinary action to be taken against their license, the specific violation behind the action and the process by which the licensee may request a hearing.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to remove definitions which will be placed in a separate definition regulation and also to clarify and outline the process by which the board notifies a licensee of disciplinary action being taken against them, reasons for board action and the process by which the licensee may request a hearing.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by setting forth the procedures and thereby placing the licensee on notice.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the manner in which the board notifies a licensee of disciplinary action to be taken against their license, the specific violation behind the action and the process by which the licensee may request a hearing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation directly impacts any of the 1,135 licensees who may have disciplinary action taken against their license.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees should read and be aware of this regulation. No specific action will be necessary for compliance.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Should the licensee be subject to disciplinary action, they will have a clear communication from the board of their violation and discipline as well as a process by which to request a hearing.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied since this regulation applies equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 312.019

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners (Amendment)

201 KAR 21:065. Professional advertising; seventy-two (72) hour right of rescission.

RELATES TO: KRS 312.019(9)(g), 312.021, 312.991[~~312.019(9)(g)~~]

STATUTORY AUTHORITY: KRS 312.019(9), 312.021(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.021(1) prohibits advertising that is false, deceptive, or misleading. KRS 312.019(9)(g) authorizes the board to promulgate administrative regulations to regulate forms of advertising and authorizes the board to establish a seventy-two (72) hour rescission period for a consumer responding to certain forms of solicitation or advertising. This administrative regulation establishes limits of permissible professional advertising[~~with the aim of adequately informing the public but at the same time establishes limits~~] to safeguard the public from false or misleading statements and nuisance type advertising. [~~KRS 312.019 authorizes the Kentucky Board of Chiropractic Examiners to adopt administrative regulations concerning forms of advertising or solicitation that may be false, misleading or deceptive and to require a seventy-two (72) hour rescission period for consumers responding to certain forms of solicitation or advertising.~~] This administrative regulation also defines the forms of solicitation or

advertising wherein the responding consumer shall be[is] granted a seventy-two (72) hour rescission period.

Section 1.[Definitions. (1) "Advertisement of free or discounted services" means any advertisement or solicitation, by any medium, offering free or discounted examinations, consultation, treatment, goods or other services.

(2) "~~Complete notice of right of rescission~~" means a conspicuous statement, of not less than ten (10) point font in any advertisement of free or discounted services that reads substantially as follows: "You have the right to rescind, within seventy-two (72) hours, any obligation to pay for services performed in addition to this free or discounted service."

(3) "~~Notice of rescission~~" means notice by the consumer rescinding any agreement to pay for unadvertised additional services performed or to be performed in addition to the free or discounted service.

(4) "~~Seventy-two (72) hour right of rescission~~" means the right of a consumer to rescind within seventy-two (72) hours any agreement to pay for services that are performed the same day in addition to the advertised free or discounted service at an additional unadvertised cost, or any agreement entered into on the same date to submit to a series or course of treatments at an additional unadvertised cost.

Section 2.[A licensee may advertise chiropractic[his] services through any medium if the advertisement is not false, deceptive, or misleading. (1) An advertisement[and] shall include[the following]:

- [(1)](a) Business name and address;
- (b) Chiropractor's name;
- (c) Telephone number;
- (d) Expiration date of the advertisement, if any; and
- (e)[Suitable] Words or letters designating the particular doctor degree held by the chiropractor. [(2)] "D.C." shall designate a doctor of chiropractic.

[(2)](3) Any Deviation from these requirements shall first be approved by the board.

(3) An[(4) Any] advertisement offering a free or discounted service shall include complete a notice of the right of rescission, which notice shall not be smaller than ten (10) point font.

Section 2.[3-] Consumer Rights, Notice. (1) A[Any] chiropractor advertising free or discounted services shall in any advertisement or solicitation provide the consumer with notice of the seventy-two (72) hour right of rescission.

(2)(a) Within ten (10) days of a[any] notice of rescission, the chiropractor shall tender to the consumer any payment made by the consumer prior to the rescission for an[any] unadvertised service performed.

(b) If[no] payment had not yet been made by the consumer for an unadvertised service[services], the consumer's account shall not be billed for that service[those services].

(3)(a) In order to be effective, the notice of rescission shall be given by the consumer to the chiropractor within seventy-two (72) hours of the completion of the advertised free or discounted service[, or agreement to submit to a series or course of treatments.

(b) The notice shall be:

- 1. In writing; and
- 2. Express the intention of the consumer to rescind his or her obligation.

(c) If notice of rescission is given by mail, it shall be effective when it:

- 1. Is properly addressed[and]
- 2. Has sufficient postage affixed; and
- 3. Is postmarked[deposited in a mailbox].

Section 3.[4-] (1) A written advertisement may be sent or delivered to an individual addressee only if:

(a) That addressee is one (1) of a class of persons, other than a family, to whom it is also sent or delivered at or about the same time; and

(b) It is not prompted or precipitated by a specific event or

occurrence involving or relating to the addressee or addressees as distinct from the general public.

(2) A licensee who[that] advertises a fee for routine services and accepts the employment shall perform the services for the amount advertised, and a statement to that effect shall be included in every advertisement in which a fee is listed.

Section 4.[5-] If a complaint is[if] filed with the board regarding an advertisement of a licensee, the board shall request, and the licensee shall furnish, a copy of the advertisement.

Section 5.[6-] Advertisement of Designation of Chiropractic Certifications[Specialty].

(1) Advertisement of chiropractic specialties as established[set forth] in 201 KAR 21:045 shall include the word "chiropractic" with any specialty designation and conform to the standards established[set forth] in this administrative regulation.

(2) Any designation or certification not recognized by the board may only be advertised if:

(a) The designation or certification is not abbreviated, but is written out;

(b) The certifying or conferring college, university, or organization is named; and

(c) Proof of attainment of the advertised designation or certification is on file at the board office.

Section 6. A licensee shall post his or her name on the premises where a service is being offered and the posted name shall be clearly visible to the public at the entrance to the premises and on any sign visible outside of the premises that offers the delivery of chiropractic services[Additional specialty designations or certifications shall not be listed or abbreviated in any advertisement by the licensee].

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 11:00 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee P. Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation delineates limits of permissible professional advertising with the aim of adequately informing the public but at the same time establishes limits to safeguard the public from false or misleading statements and nuisance type advertising.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the standards for advertising chiropractic services in an effort to protect the public.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is given the authority by statute to promulgate administrative regulations regulating the forms of advertising and solicitation. This administrative regulation delineates the permissible forms and formats of advertising.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the characteristics of permissible advertising approved by the board, thus placing licensees and the public on notice of the acceptable 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: This amended administrative regulation updates the standards for advertising chiropractic services in the Commonwealth of Kentucky and provides for advertising of certifications.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to update and clarify the permissible forms of advertising certifications.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation conforms to the content of the authorizing statute by delineating the approved standards for advertising chiropractic services in the Commonwealth of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the appropriate standards for advertising and should reduce the number of inquiries to the board as well as violations.

(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 the 925 active licensed doctors of chiropractic in the Commonwealth of Kentucky who wish to advertise.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: The licensees will need to ensure that their advertising complies with the regulation's 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 costs are necessary to comply with this amended administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Ensuring that advertising is neither false, nor misleading, benefits licensees from the standpoint that fewer complaints will be filed by consumers.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply equally to all licensees advertising chiropractic services.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 312.019(9)

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners (Amendment)

201 KAR 21:075. Peer review committee procedures and fees.

RELATES TO: KRS 312.200

STATUTORY AUTHORITY: KRS[Chapter 13A, 31.200,] 312.015, 312.019, 312.200

NECESSITY, FUNCTION, AND CONFORMITY:[KRS 312.010 empowers the Board of Examiners to adopt administrative regulations.] KRS 312.200 requires the board to appoint a peer review committee and establish procedures and fees for the review of submitted claims. This administrative regulation establishes[The function of this administrative regulation is to establish these] fees and procedures pertaining to the peer review committee.

Section 1.[Definitions. (1) "Board" means the Kentucky State Board of Chiropractic Examiners.

(2) "Committee" means the peer review committee established by KRS 312.200.

(3) "Accepted standards" for the peer review committee means those standards of care, skill, and treatment which are recognized by a reasonably prudent chiropractor as being acceptable under similar conditions and circumstances.

(4) "Appropriate chiropractic treatment" means a determination made of treatment and other services performed, which by virtue of a substantiated and properly diagnosed condition appears to be a type consistent with that diagnosis as reviewed by the peer review committee.

(5) "Unconscionable fees" means charges or bills for treatment submitted for services performed that are unnecessary or unreasonable charges in the judgment of the peer review committee. In determining the unconscionability of costs, the committee may consider, among other appropriate factors, the usual and customary charges by chiropractors and by health care providers other than chiropractors for the same or similar services in the locality where the complaint originated.

(6) "Bill for treatment" means all services provided to a

customer, regardless of the monetary consideration paid to the chiropractor.

(7) "Patient" means an individual who receives treatment from a chiropractor.

(8) "Properly utilized services" means appropriate treatment services rendered, including frequency and duration, which are substantiated as being necessary and reasonable by clinical records and reports of the provider or any other facts or evidence pertinent to the controversy as reviewed by the peer review committee.

Section 2.] Procedures and Fees of Peer Review Committee.

(1)[Before] Peer review shall not[ean] take place until[.] the patient has submitted[shall execute] a release permitting photocopies of the applicable treatment or billing records prepared by the chiropractor in the regular course of business.

(a)[No] Treatment records shall not be released for peer review without the patient's authorization.

(b) The acceptance of, or the request for, payment by a chiropractor shall constitute[constitutes] the consent of the chiropractor to the submission of all necessary records and other information concerning the treatment or the[its] cost to the peer review committee.

(c) Six (6) copies of all records or other data shall be submitted to the committee.

(2)(a) Each claim shall be assigned to an individual member of the committee who shall review the submitted records and response from the charged party and report his findings to the full committee, which shall review the findings and either adopt those findings or modify them as determined[deemed appropriate] by majority vote.

(b) A copy[Copies] of the findings shall be forwarded to the board, the patient, the chiropractor, insurer or other third party payor.

(3)(a) The peer review committee shall elect a chair[chairman].

(b) The committee may recommend for the board's approval a contract with or employment of third parties to perform administrative functions or to aid in obtaining records necessary for appropriate review of claims.

(c)1.[(4)] The peer review committee shall recommend to the board that a complaint be filed against a[any] chiropractor if it appears from the review of a[any] claim that reasonable cause exists to believe that the chiropractor has violated any portion of KRS Chapter 312 or 201 KAR Chapter 21[the administrative regulations adopted pursuant thereto] for which a chiropractor may be disciplined.

2. The peer review committee shall transmit all complaint information the committee[it] possesses to the board.

(4)(a)[(5)] A chiropractor, insurer, or other third party payor requesting review shall submit with the request a service fee of fifty (50) dollars payable to "B.C.E. Peer Review." An additional fee shall be charged for claims requiring more than one (1) hour of review by the committee calculated at fifty (50) dollars per hour, which sum shall be due prior to the delivery of committee findings to all parties. All fees shall be paid by the chiropractor, insurer or other third party payor requesting the review.

(5) Each member of the peer review committee shall comply with the requirements and standards established in 201 KAR 21:095.

Section 2.[3.] Annual Report. (1) An annual summary of the findings of the peer review committee shall be prepared by the committee and submitted to the board.

(2) The report shall[may] be made available to interested persons upon request and upon payment of the cost of reproduction.

(3) A[No] report or summary submitted to the public by the board shall not[may] disclose the name or identity of any patient without the patient's consent.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 1:00 p.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for licensure, review course, registration and registration fee for persons to perform those review services.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the guidelines for the persons performing peer review.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.200(3) provides that persons performing peer review of chiropractic claims be licensed by the board, complete annually a board approved utilization review course, annually register with the board and pay a registration fee. This administrative regulation establishes the requirements for licensure, review course, registration and registration fee for persons to perform those review services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for participating in the peer review program, thus placing licensees and committee members on notice.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation updates the peer review committee member requirements.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to update the peer review committee member requirements.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation conforms to the content of the authorizing statute by clearly establishing the requirements for the peer review committee members.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will define the requirements for the peer review committee members.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the approximately 925 active licensed doctors of chiropractic in the Commonwealth of Kentucky, any chiropractic patient, their representative, or any insurance company who may wish to request a peer review from the Board's Peer Review Committee.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment,

including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All peer review committee members shall comply with the requirements 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): There will be no cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The committee members are placed on notice of their requirements and standards. The public benefits by having a process through which to have chiropractic claims reviewed in which a committee comes to the final findings instead of an individual peer reviewer.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply equally to all licensees who choose to participate in the peer review program in the Commonwealth of Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A, 31.200, 312.015, 312.019

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners (Amendment)

201 KAR 21:085. Preceptorship Program.

RELATES TO: KRS 312.019(9)(h), 312.085(2)

STATUTORY AUTHORITY: KRS[;] 312.019(9), 312.085(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9)(h) and 312.085(2) authorize the board to establish a preceptorship program through which[where] students at accredited colleges and universities may work at the direction and under the supervision of a licensed doctor of chiropractic prior to graduation. This administrative regulation establishes the preceptorship program.

Section 1.[Definitions. (1) "Accredited chiropractic college or university" means a chiropractic college or university accredited by the Council on Chiropractic Education or its successor and which:

(a) ~~Maintains a standard and reputability approved by the board; and~~

(b) ~~Meets all educational standards for preceptorship programs as established by the Council on Chiropractic Education.~~

(2) "Board" means the Kentucky State Board of Chiropractic Examiners.

(3) "Preceptor" is a licensed doctor of chiropractic, who, under approval of the board and an accredited chiropractic college or university, provides an opportunity for an undergraduate intern to work in his or her office.

(4) "Undergraduate intern" is an individual studying at an accredited chiropractic college or university and who is in the final academic year prior to receiving his or her degree in chiropractic.

Section 2.[Requirements of Preceptor. A preceptor shall:

(1) Be approved by the Kentucky State Board of Chiropractic Examiners for participation;

(2) Have a current Kentucky license that[which] is active and in good standing;

(3) Have been in practice for five (5) years or more in Kentucky;

(4) Provide evidence of malpractice insurance[for themselves];

(5) Be of good moral character, proof of which shall be evidenced by three (3) letters of reference from persons outside the licensee's family;

(6) Not practice while[be] impaired by alcohol or narcotics;

(7) Have not been found in violation of a requirement of 201 KAR Chapter 21[board administrative regulations], other than for a minor advertising violation, for the preceding two (2) years and have no present investigations (including during a term as preceptor) for possible[board] violations; and

(8) Comply and be qualified as[where] applicable. The board shall encourage development of extension faculty designation for all preceptors approved by the colleges or university.

Section 2.[3.] Preceptor Relationship with College or University and Intern. (1) The preceptor shall make a joint application to the board and the college or university.

(2) The preceptor shall arrange or confer with the college or university representative prior to the beginning date of each session to plan the program[its] duration, organization, and substance.

(3) Upon assignment[When a preceptor is assigned], the preceptor shall maintain complete records and reports of each student's performance and provide an evaluation to the college or university on forms provided by the college or university.

(a) Any incident reports related to the operation of the practicum education experience shall be maintained by the preceptor and shall[are to] be the sole property of the preceptor.

(b) Upon receipt of written consent by the college or university, board, or student, the preceptor shall provide a copy of the report.

(4)(a) The preceptor may request the college or university to withdraw any student whose performance is unsatisfactory or whose health status prevents the student's successful completion

of the practicum education assignment.

(b) A statement, in writing, of the ~~reason~~[reasons] for that action shall be provided by the preceptor to the college or university or student upon request.

(5) The preceptor shall not be liable for the payment of any wage, salary, or compensation of any kind for services properly required of and performed by an intern.

(6) The preceptor shall provide the college or university with a written code of ethics ~~that~~[which] applies to ~~the preceptor's~~[his] office.

(7)(a) The preceptor shall ~~ensure~~[insure] that interns are allowed to perform only those duties ~~that~~[which] are lawful and ethical in the practice of chiropractic.

(b) ~~An~~[However, the] intern shall not make ~~a~~[any] final diagnosis or perform an adjustment.

(8)(a) The preceptor shall assume the risk of any accident or injury to any intern while on preceptor's premises, which shall include working areas.

(b) The preceptor shall maintain premises liability insurance.

Section 3.4. Requirements of Intern. (1) The intern shall submit a fee of \$200 to the board for each semester he or she is participating in the preceptorship program.

(2) The intern shall remain in good standing academically and demonstrate an acceptable level of performance, both quantitatively and qualitatively, in the college or university outpatient clinic.

(3) The intern shall complete, sign, and submit all application materials to the college or university clinic director for verification and approval.

(4) The intern shall serve in the preceptorship program for a term ~~established~~[specified] by the college or university for the purpose of augmenting his competence in all areas of chiropractic practice.

(5) The intern shall provide both the college or university and the preceptor with a current telephone number and address.

(6) The intern shall be responsible for following all reasonable and lawful policies and procedures of the preceptor's office.

(7) The intern shall be responsible for providing and wearing professional attire.

(8) The intern shall be responsible for his own transportation and living arrangements.

(9) The intern shall report to the preceptor on time.

(10) The intern shall not submit for publication any material relating to his preceptorship without prior written approval of the preceptor and the college or university.

(11) The intern shall ~~ensure~~[insure] that biweekly reports ~~shall be~~[are] submitted by the preceptor to the college or university on his activities and progress.

(12) At the completion of the preceptorship, the intern shall present to the college or university clinic director a paper describing his experiences and summarizing the acquisition of knowledge during the preceptorship.

(13) The intern shall provide evidence of professional liability insurance from the college or university.

(14) The intern shall respond to any inquiry by the board within twenty (20) days.~~[Section 5.-(1) "Application for Preceptorship", 2006 edition, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Chiropractic Examiners, 209 South Green Street, Glasgow, Kentucky 42142, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 2:00 p.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies the procedures relating to the preceptorship program in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: The necessity of this regulation is to ensure that licensees and chiropractic students are placed on notice as to the proper procedures, requirements and fees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is given the authority by KRS 312.019 (9)(h) to establish a preceptorship program for students enrolled in accredited chiropractic colleges.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the preceptorship program and its 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: This amended administrative regulation removes the definitions to be placed in 201 KAR 21:001 and updates the Application for Preceptorship.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to remove the definitions for placement in 201 KAR 21:001 and to update the Application for Preceptorship.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by establishing a preceptorship program.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the manner in which applications are made to the Board and licenses are renewed which will reduce the amount of time the Board's staff spends answering these basic questions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation directly impacts the approximately thirty-eight (38) licensees registered to perform peer review in the Commonwealth of Kentucky.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees are required to complete the education, pay the fees associated with initial licensure and renewal and register annually with the Board as 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): The registration and annual renewal fee is \$100.

(c) As a result of compliance, what benefits will accrue to the

entities identified in question (3): The licensees wishing to perform peer review are put on notice of specific requirements for obtaining and maintaining licensure by incorporating the appropriate educational requirements and referencing the appropriate fees. As a result of compliance, licensees will be allowed to conduct business as a licensed peer review chiropractor in the Commonwealth.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This board's operation is funded by fees paid by 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply equally to all licensees who choose to participate in the preceptorship program in the Commonwealth of Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.019(9), KRS 312.085(2)

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners (Amendment)

201 KAR 21:095. Licensure, ~~and~~ registration, ~~and~~ standards of persons performing peer review.

RELATES TO: KRS 312.175, 312.200(3)

STATUTORY AUTHORITY: KRS 312.019(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the board to ~~promulgate~~[adopt] administrative regulations. KRS 312.200(3) ~~requires~~[provides] that persons performing peer review of chiropractic claims be licensed by the board, complete annually a board approved utilization review course, and annually register with the board and pay a registration fee. This administrative regulation establishes the requirements for the licensure, review course, registration, and registration fee for persons to perform ~~peer~~[those] review services.

~~Section 1. [Definitions. (1) "Accepted standards" means those standards of care, skill and treatment which are recognized by a reasonably prudent chiropractor as being acceptable under similar conditions and circumstances.~~

~~(2) "Appropriate chiropractic treatment" means a determination made of treatment and other services performed which, by virtue of a substantiated and properly diagnosed condition, appear to be of a type consistent with that diagnosis.~~

~~(3) "Bill for treatment" means all services provided to a patient, regardless of the monetary consideration paid to the chiropractor.~~

~~(4) "Patient" means an individual who receives treatment from a chiropractor.~~

~~(5) "Peer review" is defined by KRS 312.015(4).~~

~~(6) "Properly utilized services" means appropriate treatment, services rendered, including frequency and duration, which are substantiated as being necessary and reasonable by clinical records and reports prepared by the treating chiropractor.~~

~~(7) "Unconscionable fees" means charges or bills for treatment submitted for services performed that are unreasonable charges for those services as compared to the usual and customary charges by chiropractors for the same or similar services in the locality where the services were performed.~~

Section 2.] Requirements for Licensure and Registration. A person performing chiropractic peer review shall: [In order to be licensed to perform a chiropractic peer review, a chiropractor]

(1) Hold a current active license to practice chiropractic within the Commonwealth of Kentucky;

(2) (a) For the first year that a person seeks to register to perform peer review, [he shall] have previously successfully completed a course consisting of a minimum of 100 hours of utilization review and independent medical examination from a chiropractic college or university accredited by the Council on Chiropractic Education; and

(b) For each year thereafter that a person seeks to register to perform peer review, [he shall] have completed six (6) hours of utilization review offered by a chiropractic college or university accredited by the Council on Chiropractic Education, which shall be obtained within the Commonwealth of Kentucky; and

(3) Register annually with the board, by June 1 of each year, by:

(a) Presenting evidence of satisfactory compliance with the requirements established [set-out] in this section and of having met the education requirements of KRS 312.175; [and]

(b) Completing the Registration Form for Persons Performing Peer Review of Kentucky Chiropractic Claims; and

(c) Paying a registration fee of fifty (50) dollars [twenty (20)].

Section 2. [3:] In performing peer review activities, a licensee shall:

(1) Render the actual review service and documented report;

(2) Personally retain a copy of all records associated with each peer review case for a minimum of seven (7) years;

(3) Employ minimum standards associated with the practice of

chiropractic and comply with the code of ethical conduct established~~[set forth]~~ in 201 KAR 21:015; ~~[and]~~

(4) Provide a report that includes the rationale for the determination in order that the licensee provider is given adequate information to appeal;~~[and]~~

(5) Sign all reports, ~~unless[except when]~~ the review is performed under the Kentucky Chiropractic Board of Examiners Peer Review Committee, in which case, the board's administrator or designee shall sign the determination;

~~(6) Review in accordance with accepted standards as defined in 201 KAR 21:001;~~

~~(7) Review thoroughly and rely on all documents provided to the reviewer;~~

~~(8) List in the resulting report all documents provided to the reviewer and list all documents reviewed; and~~

~~(9) Personally conduct the review and prepare the report.~~

Section 3. Complaint Procedure Related to Peer Reviewers. A complaint against a peer reviewer alleging a violation of this administrative regulation or any other provision of KRS Chapter 312 or 201 KAR Chapter 21 shall be filed and processed according to the procedure established in 201 KAR 21:051.

Section 4. Incorporation by Reference. (1)" Registration Form~~[Renewal]~~ for Persons Performing Peer Review of Kentucky Chiropractic Claims~~[in Kentucky]~~", 2013~~[6/99]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Chiropractic Examiners, 209 South Green Street, Glasgow, Kentucky 42141, Monday through Friday, 8:00 a.m. to 4:30 p.m.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 1:15 p.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies the procedures relating to application for certification, certification renewal, and fees for persons performing chiropractic peer review in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: The necessity of this regulation is to ensure that licensees are placed on notice as to the proper procedures and fees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The board is given the authority by statute to promulgate administrative regulations to ensure

regulation of licensees for peer review certification and to set fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which licensees apply for certification and renew their certification.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation updates the standards of a person performing peer review and provides for and incorporate a complaint process.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to update the standards of a person performing peer review and provide for a complaint process.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute by setting forth the procedures and fees for peer reviewers thereby placing the licensees on notice.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the standards of a person performing peer review and provide for and incorporate a complaint process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation directly impacts the approximately fifty-two (52) licensees registered to perform peer review in the Commonwealth of Kentucky.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees are required to comply with the standards set forth in this administrative regulation. They will also be placed on notice of the process through which any complaint will be handled.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The registration and annual renewal fee is fifty (50) dollars.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees wishing to perform peer review are put on notice of specific requirements for obtaining and maintaining licensure by incorporating the appropriate educational requirements and referencing the appropriate fees. As a result of compliance, licensees will be allowed to conduct business as a licensed peer review chiropractor in the Commonwealth.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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 is a thirty (30) dollar increase in the cost of registration which will be necessary to implement this amended regulation due to the additional administrative and legal cost of implementing the complaint process for peer reviewers.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation directly increases the registration fee paid by persons registered to perform peer review to fifty (50) dollars.

(9) TIERING: Is tiering applied? Tiering was not applied as the criteria apply equally to all licensees who choose to participate in the peer review program in the Commonwealth of Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.019(9)

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners
(Amendment)**

201 KAR 21:100. Minimum standards for recordkeeping or itemized statements.

RELATES TO: KRS 312.019(9)(j)

STATUTORY AUTHORITY: KRS 312.019

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9)(j) authorizes the board to promulgate~~adopt~~ administrative regulations to establish minimum standards for recordkeeping and issuance of itemized statements. This administrative regulation establishes ~~these~~ standards for recordkeeping and issuance of itemized statements.

Section 1. Office Visits;[-] Recordkeeping. (1) The patient's records shall include the initial history, exams, reexams, diagnosis, update diagnosis, standing orders or plan of care (updated as needed or at reexam), and appropriate diagnostic and imaging studies. This information shall be legibly recorded in the patient's records and properly identified.

(2) Legible documentation, whether electronically generated, computer generated, typewritten, or hand written, shall record each visit, and shall include~~the following~~:

(a) Date of the visit;

(b) Patient symptoms and findings, comment and interval history, if any;

(c) Procedures performed, if any;

(d) Additional pertinent comments, instructions, or orders; and

(e) The treating doctor's name.

Section 2. Itemized Statements. Requests for itemized statements, including dates, services and fees, shall be honored within ten (10) business days.

Section 3. Record Maintenance. All patient records shall be maintained for a minimum of seven (7) years.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 2:15 p.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum standards for recordkeeping and issuance of itemized statements.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the minimum standards for recordkeeping and issuance of itemized statements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019(9)(j) authorizes the board to adopt administrative regulations to establish minimum standards for recordkeeping and issuance of itemized statements. This administrative regulation establishes these standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the minimum standards for recordkeeping and issuance of itemized statements.

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

(a) How the amendment will change this existing administrative regulation: This amended administrative regulation makes the current requirements more clear by specifying current requirements.

(b) The necessity of the amendment to this administrative regulation: This amendment to the current administrative regulation is necessary to clarify the requirements, in an effort to place licensees on notice.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation conforms to the content of the authorizing statute by clearly defining the requirements for the minimum standard of recordkeeping.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will clearly define the requirements for recordkeeping.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts the approximately 925 active licensed doctors of chiropractic in the Commonwealth of Kentucky who are eligible to practice.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment,

including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees must include the patient's initial history as part of the patient's records. The licensee will also be required to have the treating doctor's name on the patient's daily visit notes.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The doctors of chiropractic benefit by having the specific documents required for continuity of care of each patient. This amendment will clarify the requirements for the minimum standard of recordkeeping, making compliance easier for the licensee.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied since these requirements apply equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.019

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Real Estate Appraisers Board (Amendment)

201 KAR 30:125. Continuing education for appraisers.

RELATES TO: KRS 324A.035(3), 324A.045(2), 12 U.S.C. 3331-3351

STATUTORY AUTHORITY: KRS 324A.020, 324A.035(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.035(3) requires the board to establish by administrative regulation requirements for continuing education for appraisers. Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 U.S.C. 3331-3351, establishes requirements for the renewal of certification or licensure of appraisers of real property in federally related transactions. This administrative regulation establishes the continuing education requirements for appraisers.

Section 1. Continuing Education: Number of Hours Required.

(1) Certified general real property appraisers, certified residential real property appraisers, licensed real property appraisers, and associate real property appraisers shall:

(a) Complete fourteen (14) hours of approved continuing education each license year prior to May 16 of the current renewal year; and

(b) Submit to the board proof of course completion prior to May 31 of the current renewal year.

(2) Non-compliance with either of the requirements specified in this section shall cause the applicant's renewal application to be deemed to be late, which shall result in a \$200 late fee for renewal.

Section 2. Continuing Education. (1) Continuing education credit may be granted. If granted, continuing education credit shall be for:

(a) Approved continuing education courses; or

(b) Participation, other than as a student, in appraisal educational programs and processes not to exceed seven (7) hours of the required fourteen (14) hours of continuing education for each licensure year.

(2) Appraisal educational programs and processes shall include:

(a) Teaching a course. Credit for instructing any given course shall only be awarded one (1) time during a continuing education cycle;

(b) Program development;

(c) Authorship of textbooks; or

(d) Similar activities.

(3) Continuing education credit shall be granted if a course:

(a) Is at least two (2) hours in duration;

(b) Subject ensures that an appraiser's skill, knowledge, and competency in real estate appraisal shall be maintained or increased; and

(c) Has been approved by the board.

(4) Course Approval Program Application for continuing education credit shall be submitted to the board in writing and documented by the approved provider of instruction.

(5) To be approved for continuing education credit, a course shall be consistent with the purpose of continuing education and cover those real property related appraisal topics, including:

(a) Ad valorem taxation;

(b) Arbitration, dispute resolution;

(c) Courses related to the practice of real estate appraisal or consulting;

(d) Development cost estimating;

(e) Ethics and standards of professional practice, USPAP;

(f) Land use planning, zoning;

(g) Management, leasing, timesharing;

(h) Property development, partial interests;

(i) Real estate law, easements, and legal;

(j) Real estate litigation, damages, condemnation;

(k) Real estate financing and investment;

(l) Real estate appraisal related computer applications;

- (m) Real estate securities and syndication;
- (n) Green building construction;
- (o) Impact of seller concessions;
- (p) Appraising personal property as a component of real property value; or
- (q) Appraising business value as a component of real property value.
- (6) Real estate appraisal related field trips shall be acceptable for credit toward the continuing education requirements, except transit time to or from the field trip shall not be included unless instruction occurs during the transit time.
- (7)(a) Each credential holder shall successfully complete the seven (7) hour National Uniform Standards of Professional Appraisal Practice Update Course, or its equivalent, between January 1 and May 15~~[June 30]~~ of each even numbered year.
- (b) Equivalency shall be determined through the Appraiser Qualifications Board Course Approval Program.
- (c) USPAP continuing education credit shall only be awarded if the class is instructed by an AQB Certified Instructor who is also a State Certified General Real Property Appraiser or a State Certified Residential Real Property Appraiser.
- (8) The board shall defer continuing education requirements for up to 180 days for credential holders:
 - (a) Returning from active military duty; or
 - (b) Whose business or residence is located in a county that has been declared a disaster area by the governor or President of the United States.
- (9) Credit for repeating the same course title and content within a twenty-four month (24) period shall not be granted.

Section 4. Incorporation by Reference. (1) "Course Approval Program Application", October 2012, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Real Estate Appraisers Board, 135 W. Irvine Street, Suite 301, Richmond, Kentucky 40475, Monday through Friday, 8 a.m. to 4:30 p.m.

HAROLD BRANTLY, Chair

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2014 at 3:00 p.m., at 135 West Irvine Street, Suite 301, Richmond, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 20, 2014, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Board of Real Estate Appraisers, 135 West Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax **(859) 623-2598**.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: James J. Grawe

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes continuing education requirements for certified and licensed appraisers.

(b) The necessity of this administrative regulation: This regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and to identify the continuing education requirements for certified and

licensed appraisers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding continuing education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in administering this program by setting forth continuing education requirements for certificate holders.

(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 the date by which the USPAP Update shall be completed.

(b) The necessity of the amendment to this administrative regulation: The necessity of the amendment to this administrative regulation is to set the date by which the USPAP Update must be completed.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statute allows the Board to establish the requirements for continuing education.

(d) How the amendment will assist in the effective administration of the statutes: This amendment establishes the date by which the USPAP Update shall be completed.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately one thousand five hundred persons certified by 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: A licensee will be required to obtain continuing education for renewal.

(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 additional costs for complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will be up to date in the profession.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

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

(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 the changes made by this regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all certificate holders.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 12 U.S.C. 3331, 3336, and 3339 and 12 C.F.R. 225.64 and 225.65.

(2) State compliance standards. This administrative regulation requires compliance with the educational requirements promulgated by the Appraisal Qualifications Board of the Appraisal Foundation.

(3) Minimum or uniform standards contained in the federal mandate. The federal mandate requires compliance with the educational requirements promulgated by the Appraisal Qualification Board of the Appraisal Foundation.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

(5) Justification for imposition of the stricter standard, or additional or different responsibilities or requirements. No stricter standard, or additional or different responsibilities or requirements imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 324A.035(1), (3), 324A.040(2), 12 U.S.C. 3331-3351.

3. 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 Real Estate Appraisers Board (Amendment)

201 KAR 30:375. Appraisal procedures for appraisal management companies.

RELATES TO: KRS 324A.150 – 324A.164, 15 U.S.C. 1639e(i), 12 C.F.R. 226.42(f)

STATUTORY AUTHORITY: KRS 324A.152(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.152(8) requires the board to establish by administrative regulation standards governing the operation of an appraisal management company. This administrative regulation establishes appraisal procedures for appraisal management companies.

Section 1. (1) A registrant shall make payment to an engaged appraiser for the completion of an appraisal within forty-five (45) days after the date on which the appraisal report is originally transmitted~~or otherwise completed~~.

(2) Subsequent requests by a registrant to the appraiser for additional support of valuation or correction of factual and objective data shall not extend the payment date beyond the original forty-five (45) days from first receipt of the appraisal.

(3) An appraiser shall comply with a registrant's request for additional data support of estimate of value or correction of factual

and objective data errors within fifteen (15) days of the request or be subject to complaint process to the Board by the registrant.

(4) An appraiser shall not be prohibited by an appraisal management company from including within each appraisal report the compensation received from the Appraisal Management Company for each appraisal assignment completed.

HAROLD BRANTLY, Chair

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2014 at 3:00 p.m., at 135 West Irvine Street, Suite 301, Richmond, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 17, 2014, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Board of Real Estate Appraisers, 135 West Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Larry Disney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes process for fees that appraisal management companies shall paid when engaging appraisers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set a process for appraisal procedures in the operation of an appraisal management company.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 324A.154(8) requires the board to establish by administrative regulation rules governing the standards of operation of an appraisal management company.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs Appraisal Management Companies of the standards for processing the reports submitted by appraisers for services rendered.

(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 change this existing administrative regulation by clarifying the date for calculating the payment dates.

(b) The necessity of the amendment to this administrative regulation: The necessity of the amendment to this administrative regulation is to clarify the dates for calculating payment dates.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 324A.154(8) requires the board to establish by administrative regulation rules governing the standards of operation of an appraisal management company.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by clarifying the times for payment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Board has registered approximately 100 Appraisal Management Companies.

(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 codifies under Kentucky law the standard payments in accordance with the Interim Final Rule of the Board of Governors of the Federal Reserve System under the Dodd-Frank Wall Street Reform and Consumer Protection Act, 15 U.S.C. 1639e(i). Appraisal Management Companies will then be able to demonstrate that they are clearly in compliance with the federal guidelines in their payments for services performed by an appraiser.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation will involve no additional costs to the Appraisal Management Companies as they are already required to pay customary and reasonable fees under the Interim Final Rule identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will eliminate any uncertainty for Appraisal Management Companies regarding fees to be paid to appraisers for services.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 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 to the Board 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 not directly establish fees.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 324A.152(8); 15 U.S.C. 1639e(i); 12 C.F.R. 226.42(f).

3. 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 Board of Licensure for Professional Art Therapists (Amendment)

201 KAR 34:020. Fees.

RELATES TO: KRS 309.133, 309.1335, 309.138

STATUTORY AUTHORITY: KRS 309.1315(1), (4), (13), 309.135

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(13) and 309.135 require the board to promulgate an administrative regulation establishing fees for licensure, ~~examination,~~ renewal, and reinstatement of the license. This administrative regulation establishes those fees.

Section 1. Application Fee. (1)(a) The application fee for board review of the application for licensure as a licensed professional art therapist shall be \$100.

(b) The application fee for board review of the application for licensure as a licensed professional art therapist associate shall be fifty (50) dollars.

(2) The application fee shall be nonrefundable.

Section 2. ~~Examination Fee.~~ (1) ~~The fee for the written examination shall be \$100.~~

(2) ~~The fee for retaking the examination shall be \$100.~~

Section 3. Initial Licensure Fee. (1)(a) The initial licensure fee shall be \$100 for licensure as a licensed professional art therapist.

(b) The initial licensure fee shall be fifty (50) dollars for licensure as a licensed professional art therapist associate.

(2) If the applicant successfully completes all requirements for licensure, this fee shall cover licensure for the initial two (2) year period.

Section 3.4. Renewal Fee. (1) The renewal fee for licensed professional art therapist licensure shall be \$200 for a two (2) year period.

(2) The renewal fee for licensed professional art therapist associate licensure shall be \$150 for a two (2) year period.

Section 4.5. Late Fee. The late fee for a license who applies for renewal within ninety (90) days of his or her original renewal deadline shall be fifty (50) dollars, which shall be paid in addition to the renewal fee set out in Section 3.4 of this administrative regulation.

Section 5.6. Reinstatement Fee. The reinstatement fee for a licensee who applies for reinstatement more than ninety (90) days but prior to 180 days after the original renewal deadline shall be \$100 which shall be paid in addition to the renewal fee set out in Section 3.4 of this administrative regulation.

Section 6.7. Incorporation by Reference. (1) "LPAT Reinstatement Form", 2010, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

MARYBETH ORTON, Chair

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014 at 1:00 p.m., at 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 17, 2014, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person

who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Lucie Duvall, Board Administrator, Kentucky Board of Licensure for Professional Art Therapists, 911 Leawood Drive, Frankfort, Kentucky 40061, phone (502) 564-3296, fax (502) 696-8030.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: James J. Grawe

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes fees for licensure, renewal and reinstatement of the license.

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

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations fees for licensure and renewal of licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in administering this program by setting the fees required for licensure 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: The amendment will change the existing administrative regulation to include the fees for the newly created licensed professional art therapist associate license.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to establish the fees for the newly created licensed professional art therapist associate license.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding fees.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist the board in administering this program by establishing the fees for licensure.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately eighty (80) persons licensed as art therapists in the Commonwealth. The board receives approximately ten (10) to twenty (20) applications for licensure each year.

(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 licensee or applicant will be required to pay the appropriate fee for licensure.

(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 additional costs for complying beyond the standard application fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals applying for licensure or renewal will be informed of the amount of fees required by the board.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by 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: The increase in fees or funding are required to implement the changes made by the establishment of the new license for the Licensed Professional Art Therapist Associate.

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

(9) TIERING: Is tiering applied? Tiering was applied to account for the different levels of licensure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Board of Licensure for Professional Art Therapists.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.1315(1), (4), (13), 309.135.

3. 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 Board of Licensure for Professional Art Therapists (Amendment)

201 KAR 34:030. Continuing education requirements.

RELATES TO: KRS 309.1335(1)(b)

STATUTORY AUTHORITY: KRS 309.1315(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1335(1)(b) authorizes the board to promulgate an administrative regulation requiring professional art therapists to complete continuing education requirements as a condition of renewal of their license. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. As used in this administrative regulation, unless the context otherwise requires:

(1) "Academic courses offered by an accredited postsecondary institution" means:

(a) An art therapy course, designated by an art therapy course title or content, beyond the undergraduate level; or

(b) An academic course, relevant to professional art therapy, beyond the undergraduate level.

(2) "Approved" means recognized by the Kentucky Board of Licensure for Professional Art Therapists.

(3) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.

(4) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or series.

(5) "Provider" means an individual or an organization that provides or sponsors continuing education programs and is approved by the Kentucky Board of Licensure for Professional Art Therapists.

(6) "Relevant" means having content applicable to the practice of professional art therapy as determined by the board. Continuing education activities shall be in the following content areas in order to be considered relevant:

(a) Psychological and psychotherapeutic theories and practice;

(b) Art therapy assessment;

(c) Art therapy theory and practice;

(d) Client populations;

(e) Art theory and media; and

(f) Professionalism and ethics.

(7) "Successful completion" means that the license holder has:

(a) Satisfactorily met the specific requirements of the program; and

(b) Earned the continuing education hours.

Section 2. Accrual of Continuing Education Hours; Computation of Accrual. (1) A minimum of forty (40) continuing education hours shall be accrued by a licensed professional art therapist~~[each person holding licensure]~~ during the two (2) year licensure period for renewal.

(2) A minimum of eighteen (18) continuing education hours shall be accrued by a licensed professional art therapy associate during the two (2) year licensure period for renewal.

(3) All hours shall be in or related to the field of professional art therapy.

(4) A licensee shall obtain three (3) hours of continuing education on ethics during the two (2) year licensure period for renewal.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the certificate shall be directly related to the professional growth and development of a professional art therapy practitioner. Hours may be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. A program provided or approved by any of the following providers shall be deemed to be relevant to the practice of professional art therapy and shall be approved without further review by the board:

(a) The American Art Therapy Association, Inc. or any of its state affiliates;

(b) The Art Therapy Credentials Board, Inc.;

(c) The American Association of Marriage and Family Therapy and its state affiliates;

(d) The National Association of Social Workers and its state affiliates;

(e) The American Psychological Association and its state affiliates;

(f) The American Counseling Association and its state affiliates;

(g) The National Board of Certified Counselors and its state affiliates;

(h) The Association for Addiction Professionals (NAADAC) and its state affiliates;

(i) The Department for Mental Health, Developmental Disabilities and Addiction Services;

(j) The Employee Assistance Professionals Association; and

(k) Academic courses as set forth in Section 1(1) of this administrative regulation. A general education course, elective or

designated to meet degree requirements, shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

(2) Programs requiring board review and approval. A program from any of the following sources shall be reviewed by the board and determined whether it is relevant:

(a) A program, including a home study course, webinar, and in-service training provided by another organization, educational institution, or service provider approved by the board;

(b) A program or academic course presented by the license holder. A presenter of a relevant program or academic course shall earn two (2) continuing education hours for each contact hour of instruction. Credit shall not be issued for repeated instruction of the same course;

(c) A publication in a professionally recognized or juried publication. Continuing education hours shall be granted for a relevant publication as follows:

1. Five (5) continuing education hours for each published abstract or book review;

2. Ten (10) continuing education hours for each published article;

3. Twenty (20) continuing education hours for each book chapter or monograph; and

4. Forty (40) continuing education hours for each published book; and

(d) An exhibition in a juried art show. An exhibitor at a juried art show shall earn ten (10) continuing education hours for an~~[each]~~ exhibition and is limited to one (1) exhibition per renewal cycle.

Section 4. Procedures for Preapproval of Continuing Education Programs. (1) Any entity seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 5 of this administrative regulation.

(2) A continuing education program shall be qualified for approval if the board determines the activity being presented:

(a) Is an organized program of learning;

(b) List goals and objectives;

(c) Pertains to subject matters which integrally relate to the practice of art therapy;

(d) [(e)] Contributes to the professional competency of the licensee; and

(e) [(d)] Is conducted by individuals who have educational training or experience acceptable to the board.

(3)(a) The board may approve a specific continuing education program that is not listed in Section 3(1) of this administrative regulation if the provider of the program:

1. Files a written request for approval;

2. Pays an annual application fee of seventy-five (75) dollars; and

3. Provides the information on a continuing education program that it proposes to provide that meets the requirements established in this administrative regulation.

(b) The approval of a program pursuant to paragraph (a) of this subsection shall permit the provider to offer the program for a period of one (1) calendar year.

(4)(a) A license holder 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 license period, the license holder has:

1. Requested the review by applying for individual review; and

2. Paid a fee of twenty (20) dollars.

(b) The review shall be based on the standards established by this administrative regulation.

(c) Approval by the board of a non-approved continuing education activity shall:

1. Qualify as if it has been obtained from an approved provider; and

2. Be limited to the particular offering upon which the request for individual review is based.

Section 5. Procedures for Approval of Continuing Education Programs. (1) A course that has not been preapproved may be used for continuing education if approval is secured from the board.

(2) The following shall be submitted for board review of a program:

- (a) A published course or seminar description;
- (b) The name and qualifications of the instructor including resume/vitae;
- (c) A copy of the program agenda indicating hours of education, coffee and lunch breaks;
- (d) Number of continuing education hours requested;
- (e) Official certificate of completion or college transcript from the provider or college;
- (f) Application for continuing education credits approval;~~and~~
- (g) The applicable fee identified in Section 4 of this administrative regulation; and
- (h) Program evaluation.

Section 6. Responsibilities and Reporting Requirements of License Holders. (1) During the license renewal period, the board shall require up to fifteen (15) percent of all license holders to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board.

(2) A license holder shall:

- (a) Be responsible for obtaining required continuing education hours;
 - (b) Identify his or her own continuing education needs and seek activities that meets those needs;
 - (c) Seek ways to integrate new knowledge, skills and activities;
 - (d) Select approved activities by which to earn continuing education hours;
 - (e) Submit to the board, if applicable, a request for approval for continuing education activities not otherwise approved by the board;
 - (f) Document attendance, participation in, and successful completion of continuing education activity for a period of two (2) years from the date of the renewal; and
 - (g) Maintain records of continuing education hours;
- (3) The following items may be used to document continuing education activity:
- (a) Transcript;
 - (b) Certificate;
 - (c) Affidavit signed by the instructor;
 - (d) Receipt for the fee paid to the provider; or
 - (e) Written summary of experiences that are not formally or officially documented otherwise.

(4) Comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 309.137(1) and shall result in disciplinary pursuant to that statutory provision.

Section 7. Carry-over of Continuing Education Hours, Prohibited. Continuing education hours earned in excess of those required under Section 2 of this administrative regulation shall not be carried over into the immediately following license renewal period.

Section 8. Board to Approve Continuing Education Hours; Appeal of Denial. (1) If an application for approval of continuing education hours is denied, in whole or in part, the person holding a license shall have the right to appeal the board's decision.

(2) An appeal shall be:

- (a) In writing;
- (b) Received by the board within thirty (30) days after the date the notification of the decision denying approval of continuing education hours is mailed; and
- (c) Conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

- (a) Medical disability of the license holder;
 - (b) Illness of the license holder or an immediate family member;
 - (c) Death or serious injury of an immediate family member.
- (2) A written request for waiver or extension of time involving medical disability or illness shall be:
- (a) Submitted by the person holding the license; and
 - (b) Accompanied by a verifying document signed by a licensed physician.
- (3) A wavier of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.
- (4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding licensure shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensure. (1) A person requesting reinstatement or reactivation of licensure shall submit evidence of forty (40) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) If the board reinstates a license, the person shall obtain forty (40) hours of continuing education within six (6) months of the date on which licensure is reinstated.

(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section.

MARYBETH ORTON, Chair

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014 at 1:00 p.m., at 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 17, 2014, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Lucie Duvall, Board Administrator, Kentucky Board of Licensure for Professional Art Therapists, 911 Leawood Drive, Frankfort, Kentucky 40061, phone (502) 564-3296, fax (502) 696-8030.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: James J. Grawe

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes continuing education requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations governing continuing education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in administering this program by identifying continuing education 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: The amendment will explain the types of continuing education that are acceptable. It also identifies the continuing education necessary for the associate level of licensure.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to clarify the continuing education requirements for renewal of licensure.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding continuing education requirements.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist the board in administering this program by identifying continuing education requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board currently has approximately eighty (80) persons that renew the 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: The licensee will be required to comply with the continuing education requirements to renew a license.

(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 additional costs for complying with this requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By maintaining their continuing education, licensees are better able to provide competent services to person seeking their help.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by 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 or funding will be required to implement the changes made by this regulation.

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

(9) TIERING: Is tiering applied? Tiering was applied to account for the different levels of licensure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Board of Licensure for Professional Art Therapists.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.1315(1).

3. 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 Board of Licensure for Professional Art Therapists (Amendment)

201 KAR 34:040. Code of ethics.

RELATES TO: KRS 309.1315(14)

STATUTORY AUTHORITY: KRS 309.1315(1), (14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(14) requires the board to promulgate a code of ethics for licensed professional art therapists or licensed professional art therapist associates. This administrative regulation establishes the required code of ethics.

Section 1. Responsibility to Patients. (1) A licensed professional art therapist or licensed professional art therapist associate shall:

(a) Advance and protect the welfare of the patient;

(b) Respect the rights of a person seeking assistance;

(c) Make reasonable efforts to ensure that services are used appropriately; and

(d) Display a copy of his or her license in the principle place of business.

(2) A licensed professional art therapist or licensed professional art therapist associate shall not:

(a) Discriminate against or refuse professional service to anyone on the basis of:

1. Race;

2. Gender;

3. Religion; or

4. National origin;

(b) Exploit the trust and dependency of a patient;

(c) Engage in a dual relationship with a patient, including a social, business, or personal relationship that may:

1. Impair professional judgment;

2. Incur a risk of exploitation of the patient; or

3. Otherwise violate a provision of this administrative regulation.

If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the patient, or otherwise violate a provision of this administrative regulation, a therapist shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the patient does not occur.

(d) Engage in a sexual relationship with a current patient or with a former patient for two (2) years following the termination of therapy;

(e) Use the professional relationship with a patient to further

personal interests;

(f) Continue therapeutic relationships unless it is reasonably clear that the patient is benefiting from the relationship;

(g) Fail to assist a person in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help;

(h) Abandon or neglect a patient in treatment without making reasonable arrangements for the continuation of treatment;

(i) Videotape, record, or permit third-party observation of therapy sessions without having first obtained written informed consent from the patient;

(j) Engage in sexual or other harassment or exploitation of a patient, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in investigations and ethical proceedings; or

(k) Diagnose, treat, or advise on problems outside the recognized boundaries of competence.

Section 2. Confidentiality. (1) A licensed professional art therapist or licensed professional art therapist associate shall respect and guard the confidences of each individual patient.

(2) A licensed professional art therapist or licensed professional art therapist associate shall not disclose a patient confidence except:

(a) As mandated, or permitted by law;

(b) To prevent a clear and immediate danger to a person;

(c) During the course of a civil, criminal, or disciplinary action arising from the therapy at which the licensed professional art therapist or licensed professional art therapist associate is a defendant; or

(d) In accordance with the terms of a written informed consent agreement.

(3) A licensed professional art therapist or licensed professional art therapist associate may use patient or clinical materials in teaching, writing, and public presentations if:

(a) Written informed consent has been obtained in accordance with subsection (2)(d)(1)-(d) of this section; or

(b) Appropriate steps have been taken to protect patient identity and confidentiality.

(4) A licensed professional art therapist or licensed professional art therapist associate shall store or dispose of patient records so as to maintain confidentiality.

Section 3. Public Use and Reproduction of Patient Art Expression and Therapy Sessions. (1) A licensed professional art therapist or licensed professional art therapist associate shall obtain written informed consent from the patient or a legal guardian, if applicable, before:

(a) Photographing or videotaping a patient's art expression;

(b) Making an audio recording of an art therapy session;

(c) Permitting third-party observation of an art therapy session; or

(d) Duplication of an art therapy session in any matter.

(2) A licensed professional art therapist or licensed professional art therapist associate shall not use clinical materials in teaching, writing and public presentations unless written informed consent has been previously obtained from the patient or, if applicable, a legal guardian. Appropriate steps shall be taken to protect patient identity and disguise any part of the art expression or video tape, which reveals patient identity.

(3) A licensed professional art therapist or licensed professional art therapist associate shall obtain written, informed consent from a patient or legal guardian, if applicable, before displaying the patient's art in a:

(a) Gallery;

(b) Mental health facility;

(c) School; or

(d) Another public place.

(4) A licensed professional art therapist or licensed professional art therapist associate shall display a patient's art expression in an appropriate and dignified manner.

Section 4. Professional Competence and Integrity. A licensed

professional art therapist or licensed professional art therapist associate shall maintain standards of professional competence and integrity and shall be subject to disciplinary action for:

(1) Misrepresentation or concealment of a material fact in obtaining or seeking reinstatement of a license;

(2) Refusing to comply with an order issued by the board; or

(3) Failing to cooperate with the board by not:

(a) Furnishing in writing a complete explanation to a complaint filed with the board;

(b) Appearing before the board at the time and place designated; or

(c) Properly responding to a subpoena issued by the board.

Section 5. Responsibility to a Student, Intern, or Supervisee. A licensed professional art therapist shall:

(1) Be aware of his or her influential position with respect to a student, intern, or supervisee;

(2) Avoid exploiting the trust and dependency of a student or supervisee;

(3) Try to avoid a social, business, personal, or other dual relationship that could:

(a) Impair professional judgment; and

(b) Increase the risk of exploitation;

(4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;

(5) Not provide therapy to a:

(a) Student;

(b) Intern; or

(c) Employee; or

(d) Supervisee;

(6) Not engage in sexual intimacy or contact with a:

(a) Student or intern; or

(b) Supervisee;

(7) Not permit a student, intern, or supervisee to perform or represent himself or herself as competent to perform a professional service beyond his or her level of:

(a) Training;

(b) Experience; or

(c) Competence;

(8) Not disclose the confidence of a student, intern, or supervisee unless:

(a) Permitted or mandated by law;

(b) It is necessary to prevent a clear and immediate danger to a person;

(c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the licensed professional art therapist is a defendant;

(d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or

(e) In accordance with the terms of a written informed consent agreement.

MARYBETH ORTON, Chair

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014 at 1:00 p.m., at 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 17, 2014, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Lucie Duvall, Board Administrator, Kentucky Board of Licensure for Professional Art Therapists, 911 Leawood Drive, Frankfort, Kentucky 40061, phone (502) 564-3296, fax (502) 696-8030.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: James J. Grawe

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the board's code of ethics

(b) The necessity of this administrative regulation: This administrative regulation is necessary to identify the ethical parameters for a licensee.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations establishing the code of ethics.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in administering this program by identifying code of ethics.

(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 include the newly created associate level.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to include the newly created associate level.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the code of ethics.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist the board in administering this program by identifying proper ethical conduct expected of its licensees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board currently has approximately eighty (80) persons that are licensed by 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: The licensee will be required to comply with the code of ethics in their practice .

(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 additional costs for complying with this requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By identifying the limits of ethical conduct, licensees are better able to protect the public.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by 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 or funding will be required to implement the changes made by this regulation.

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

This administrative regulation establishes fees.

(9) TIERING: Is tiering applied? Tiering was not applied.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Board of Licensure for Professional Art Therapists.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.1315(1), (14).

3. 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

(Amendment)

501 KAR 6:070. Kentucky Correctional Institution for Women.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Kentucky Correctional Institution for Women.

Section 1. Incorporation by Reference. (1) "Kentucky Correctional Institution for Women Policies and Procedures," November 25[May 14], 2013, are incorporated by reference. Kentucky Correctional Institution for Women Policies and Procedures include:

KCIW 01-03-01	Communications Between Staff and Inmates (Amended 2/14/13)
KCIW 01-08-01	News Media Access (Amended 2/14/13)
KCIW 02-04-01	Accounting Procedures (Amended 2/14/13)
KCIW 02-05-01	Inmate Canteen and Staff Canteen (Amended 2/14/13)
KCIW 05-01-01	Outside Consultation, Research and

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Student Interns (Amended 2/14/13)
 KCIW 06-01-01 Offender Information (Amended 5/14/13)
 KCIW 08-02-01 Fire Safety Practices (Amended 2/14/13)
 KCIW 08-02-02 Fire Evacuation Routes (Amended 11/25/13[2/14/13])
 KCIW 09-01-02 Inmate Move Sheet (Amended 2/14/13)
 KCIW 09-06-04 Regulation of Inmate Movement (Amended 2/14/13)
 KCIW 09-10-01 Pedestrian and Vehicular Traffic (Amended 11/25/2013[Added 2/14/13])
 KCIW 09-10-02 Inmate Entry and Exit Procedure (Amended 5/14/13)
 KCIW 09-11-01 Prohibiting Inmate Authority Over Other Inmates (Amended 2/14/13)
 KCIW 09-12-01 Search Plan (Amended 2/14/13)
 KCIW 09-13-01 Tobacco Free Environment (Amended 11/25/13[2/14/13])
 KCIW 09-13-02 Alcohol Detection (Amended 5/14/13)
 KCIW 10-01-01 Special Management Unit General Operations and Regulations (Amended 11/25/13[5/14/13])
 KCIW 10-01-02 Special Management Unit Status, Placement and Review (Amended 2/14/13)
 KCIW 10-01-04 Death Row (Amended 2/14/13)
 KCIW 11-02-01 Menu Preparation and Special Diets (Amended 2/14/13)
 KCIW 11-03-01 Food Service Operations (Amended 2/14/13)
 KCIW 11-04-01 Health Regulations and General Guidelines for the Food Service Area (Amended 2/14/13)
 KCIW 11-07-01 Special Religious Diets (Amended 2/14/13)
 KCIW 12-01-01 Laundry, Clothing, and Personal Hygiene (Amended 2/14/13)
 KCIW 12-02-01 Pest Control (Amended 2/14/13)
 KCIW 12-04-04 Sanitation Plan (Amended 11/25/13[2/14/13])
 KCIW 13-01-01 Provision of Medical and Dental Care (Amended 11/25/13[5/14/13])
 KCIW 13-01-02 Health Appraisal and Periodic Exams (Amended 2/14/13)
 KCIW 13-01-03 Pharmaceutical Services (Amended 11/25/13[2/14/13])
 KCIW 13-02-01 Family Notification (Amended 5/14/13)
 KCIW 13-03-01 Emergency Care (Amended 2/14/13)
 KCIW 13-03-02 Convalescent and Chronic Care (Amended 2/14/13)
 KCIW 13-04-02 Psychiatric and Psychological Services (Amended 2/14/13)
 KCIW 13-07-01 Detoxification and Alcohol or Chemical Dependency (Amended 2/14/13)
 KCIW 13-09-01 Suicide Prevention and Intervention Program (Amended 2/14/13)
 KCIW 13-09-02 Inmate Observer Program (Amended 2/14/13)
 KCIW 13-13-01 Health Care Records (Amended 11/25/13[5/14/13])
 KCIW 13-14-01 Health Services (Amended 2/14/13)
 KCIW 13-14-02 Operational Guidelines for the Mental Health Area of the Lonnie Watson Center (Amended 11/25/2013[Added 2/14/13])
 KCIW 13-14-04 Injury Prevention (Added 2/14/13)
 KCIW 14-02-01 Access to Legal Resources and Services (Amended 2/14/13)
 KCIW 15-06-01 Restriction Guidelines (Amended 2/14/13)
 KCIW 16-01-01 Inmate Correspondence (Amended 2/14/13)

KCIW 16-02-01 Access to Telephones (Amended 2/14/13)
 KCIW 16-03-01 Inmate Visiting (Amended 5/14/13)
 KCIW 16-05-01 Inmate Packages (Amended 2/14/13)
 KCIW 17-01-01 Assessment Center Operations and Programs (Amended 5/14/13)
 KCIW 17-02-01 Admission Procedure (Amended 2/14/13)
 KCIW 17-05-01 Inmate Personal Property (Amended 5/14/13)
 KCIW 18-01-01 Inmate Classification (Amended 11/25/13[2/14/13])
 KCIW 18-01-03 Honor Program (Amended 2/14/13)
 KCIW 18-05-01 Special Needs Inmates (Amended 11/25/13[2/14/13])
 KCIW 19-01-01 Inmate Work and Program Assignments (Amended 2/14/13)
 KCIW 19-02-01 Governmental Services (Amended 2/14/13)
 KCIW 19-03-01 Landscape and Maintenance Work Details (Amended 2/14/13)
 KCIW 19-04-01 Correctional Industries (Amended 2/14/13)
 KCIW 20-01-01 Education Programs (Amended 11/25/13[2/14/13])
 KCIW 21-01-01 Library Services (Amended 11/25/13[5/14/13])
 KCIW 22-01-01 Recreation and Inmate Activity (Amended 11/25/13[2/14/13])
 KCIW 22-01-02 Arts and Crafts Program (Amended 2/14/13)
 KCIW 22-01-04 Inmate Club Activities (Amended 11/25/13[5/14/13])
 KCIW 23-01-01 Religious Services (Amended 2/14/13)
 KCIW 24-01-01 Social Services Program (Amended 2/14/13)
 KCIW 24-02-01 Substance Abuse Program (Amended 2/14/13)
 KCIW 25-02-01 Temporary Release and Community Release (Amended 5/14/13)
 KCIW 25-03-01 Funeral Home Visit or Bedside Visit (Amended 2/14/13)
 KCIW 26-01-01 Volunteer Service Program (Amended 2/14/13)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the 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, Monday through Friday, 8 a.m. to 4:30 p.m.

LADONNA H. THOMPSON, Commissioner

APPROVED BY AGENCY: November 18, 2013

FILED WITH LRC: November 25, 2013 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2013 at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 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 January 31, 2013. 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: Amy V. Barker, Assistant General

Counsel, Department of Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Kentucky Correctional Institution for Women including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035, 197.020, and to meet ACA requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of the Kentucky Correctional Institution for Women.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to employees and the inmate population concerning employee duties, inmate responsibilities, and the procedures that govern operations of the 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: The amendment brings the policies and procedures of the Kentucky Correctional Institution for Women into compliance with American Correctional Association standards and updates current practices for the facility.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Commissioner or her authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Kentucky Correctional Institution for Women.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff, inmates and visitors information concerning the effective and orderly management of the institution.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Kentucky Correctional Institution for Women 220 employees and 650 inmates, and all visitors to KCIW.

(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: Staff, inmates, volunteers, and visitors will have to follow the changes made in the policies and procedures. They will have to change their actions to comply with any operational changes made by this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An increase in cost is not anticipated to the entities from the changes in operations made in the amendments since they do not have related costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the penal institution.

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

(a) Initially: No additional cost is anticipated.

(b) On a continuing basis: No additional cost is anticipated.

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

Kentucky Correctional Institution for Women 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 is anticipated.

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

(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.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) 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 Correctional Institution for Women

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020

(3) 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 amendments to this regulation do not create any revenue for the Kentucky Correctional Institution for Women.

(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 amendments to this regulation do not create any revenue for the Kentucky Correctional Institution for Women.

(c) How much will it cost to administer this program for the first year? No new programs were created. The amendments to this regulation impact how the institution operates, but do not increase costs from what was previously budgeted to the Department of Corrections.

(d) How much will it cost to administer this program for subsequent years? The amendments to this regulation impact how the institution operates, but are not expected to increase costs from what will be budgeted to the Department of Corrections.

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:

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Amendment)

601 KAR 9:085. Procedures for becoming a certified motor vehicle inspector.

RELATES TO: KRS 186A.115, 516, 523

STATUTORY AUTHORITY: KRS 186A.115(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186A.115(1)(a) requires the department to promulgate an administrative regulation establishing the certification requirements for a certified motor vehicle inspector[inspectors]. This administrative regulation establishes the requirements necessary to become[for becoming] a certified motor vehicle inspector and the process required for a motor vehicle inspector to be recertified.

Section 1. Requirements[To become a certified motor vehicle inspector, an applicant shall comply with the requirements established in this section]. (1) The sheriff of the county for which

the individual is to be certified shall submit the[following] information established in paragraphs (a) through (g) of this subsection to the commissioner of the Department of Vehicle Regulation:

- (a) Name of sheriff;
- (b) Designation of sheriff or sheriff elect;
- (c) County in which sheriff was elected;
- (d) Sheriff's Social Security number;
- ~~(e)[(f)]~~ Sheriff's signature;
- ~~(f)[(g)]~~ Date the document was executed by the sheriff; and
- ~~(g) The[(h)]~~ proposed inspector's:
 - 1. Name;
 - 2. Business mailing address;
 - 3. County of residence;
 - 4. Business and residence telephone numbers;
 - 5. Current designation as certified inspector including inspector number and county, if applicable;
 - 6. Prior inspector training and date, if applicable; and
 - 7. Certification that he or she has attended the training to become a certified motor vehicle inspector[required by subsection (4) of this section].

(2) If a sheriff has vacated his or her office and a certified motor vehicle inspector is not available in the county, the commissioner of the Department of Vehicle Regulation shall designate a temporary certified inspector until a new sheriff takes office.

(3) An applicant for certification as a[or a certified] motor vehicle inspector shall:

- (a) Be[at least] eighteen (18) years of age or older;
 - (b) Be a resident of the Commonwealth of Kentucky;
 - (c) Not have a felony criminal record or pending felony charge;
- and
- ~~(d)[Not have any pending felony charge at the time of his designation; and~~

~~(e)[Not have a misdemeanor conviction or pending charge related[relating] to KRS Chapter 516 or 523[, forgery and related offenses or to KRS Chapter 523, perjury and related offenses].~~

(4)[(3)] A licensed motor vehicle dealer or an[any] employee in his or her dealership shall not be eligible to become a certified motor vehicle inspector.

(5)[(4)] An applicant shall attend a training program conducted by the Department of Vehicle Regulation in conjunction with the Kentucky State Police.

(6) An applicant who attends the training program shall receive a certificate from[Section 2. After the applicant has attended the training required by Section 1(4) of this administrative regulation,] the commissioner of the Department of Vehicle Regulation[shall issue a certificate] certifying the applicant[to serve] as a[certified] motor vehicle inspector.

(7) A certificate shall be valid for four (4) years.

(8) Six (6) months prior to the expiration of the four (4) year certificate, an inspector may be recertified. Recertification shall require attending a training program pursuant to subsection five (5) of this section.

Section 2. Revocation. (1) If a[Section 3. (1) The county sheriff may withdraw a designation at any time by notifying, in writing, the Commissioner of the Department of Vehicle Regulation.

(2) When] notification of withdrawal of designation is received by the Department of Vehicle Regulation from the county sheriff, the commissioner shall revoke the individual's certification.

(2)[Section 4.] A certified motor vehicle inspector whose certification has been suspended or revoked shall not be eligible[allowed] to inspect a motor vehicle[after his certification has been suspended or revoked].

(3)[Section 5. Upon written notice to the county sheriff, the Commissioner of the Department of Vehicle Regulation or the Kentucky State Police acting through the department may require additional in-service training or recertification of any certified motor vehicle inspector.

Section 6.] The commissioner of the Department of Vehicle Regulation shall[with sufficient cause may] revoke or suspend the certification of a[any] certified inspector if the inspector:

- (a) Is convicted of a felony or has a pending felony charge;
- (b) Is convicted of a misdemeanor or has a pending misdemeanor charge relating to perjury or forgery as established in Section 1(3) of this administrative regulation;
- (c) Fails[. Sufficient cause shall include a conviction or pending charge of a felony or a misdemeanor relating to perjury or forgery or failure] to satisfactorily complete the training required in Section 1(5)[(4)] of this administrative regulation.

Section 3. Appeal.[7.] (1) At least thirty (30) days prior to revoking or suspending a certificate, the department shall notify the certified inspector in writing of the action the department proposes to take and the reasons[therefore].

(2) A certified inspector may appeal the action. Appeal shall be within forty-five (45) days.

(3) The notice of appeal shall be in writing to the Commissioner of Vehicle Regulation[commissioner] and shall state[set forth] the basis for the appeal.

(4) An appeal shall be conducted in accordance with KRS Chapter 13B.[Section 8. If a sheriff is vacated from office and there is not a certified inspector available in the county, the Commissioner of the Department of Vehicle Regulation may designate a temporary certified inspector until the time a new sheriff takes office.]

RODNEY KUHL, Commissioner

MIKE HANCOCK, Secretary

D. ANN DANGELO, Asst. General Counsel

APPROVED BY AGENCY: December 9, 2013

FILED WITH LRC: December 11, 2013 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 21, 2014 at 10:00 a.m. local time at the Transportation Cabinet, Transportation Cabinet Building, Hearing Room C121, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing, of their intent to attend. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement five working days prior to the hearing. This request does not have to be in writing. 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 the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. on January 31, 2014. 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: D. Ann Dangelo, Asst. General Counsel, Transportation Cabinet, Office of Legal Service, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Ann DAngelo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for a motor vehicle inspector to become certified and later recertified at the end of four (4) years.

(b) The necessity of this administrative regulation: This regulation is necessary to inform the public of the requirements for persons who wish to be motor vehicle inspectors.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 186A.115(1)(a) requires the cabinet to promulgate an administrative regulation establishing the requirements for becoming a certified motor vehicle inspector.

(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: This administrative regulation will clarify and update the procedures involved in the certification process.

(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 an additional requirement of recertification by a motor vehicle inspector at the end of four (4) years. It also adds language addressing what should be done if a sheriff is vacated from office and no certified inspector is available in the county.

(b) The necessity of the amendment to this administrative regulation: The amendment insures that motor vehicle inspectors are current in procedures and requirements by recertification every four (4) years.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment clarifies and updates the certification standards required by KRS 186A.115.

(d) How the amendment will assist in the effective administration of the statutes: The amendment updates the certification requirements pursuant to KRS 186A.115.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects persons wishing to become certified motor vehicle inspectors.

(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: Four (4) years after certification, a motor vehicle inspector will have to be recertified.

(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 fees involved with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): These requirements insure that inspectors are updated in process and procedures and motor vehicles are properly inspected.

(5) Provide an estimate of how much it will cost the administrative body to implement the administrative regulation: There are no known costs associated with the amendments to this administrative regulation.

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 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 is no need for the cabinet to increase fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established by this regulation either directly or indirectly.

(9) TIERING: Is tiering applied? No. Tiering is not applied. All motor vehicle inspectors will have to be recertified four (4) years after their initial certification.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 impacts the cabinet's Department of Vehicle Regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 186A.115.

3. 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 not be any effect on the expenditures of a state or local 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? This administrative regulation will not generate additional revenue.

(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 administrative regulation will not generate additional revenue.

(c) How much will it cost to administer this program for the first year? No administrative costs are required or expected.

(d) How much will it cost to administer this program for subsequent years? No subsequent administrative costs are anticipated.

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

Kentucky Board of Education

Department of Education

(Amendment)

703 KAR 5:070. Procedures for the inclusion of special populations in the state-required assessment and accountability programs.

RELATES TO: KRS 158.6451, 158.6453, 158.6455

STATUTORY AUTHORITY: KRS 156.029, 156.070, 158.6453, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 provides the Kentucky Board of Education with the authority to promulgate administrative regulations to establish a system of determining successful schools and a system of rewards and assistance for certified staff in schools and districts. This administrative regulation establishes procedures for the inclusion of special student populations in the state-required assessment and accountability programs.

Section 1. Incorporation by Reference. (1) "Procedures for Inclusion of Special Populations in the State-Required Assessment and Accountability Programs", December 2013[February 12, 2009], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, Office of Assessment and Accountability, 18th Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky, 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(5).

TERRY HOLLIDAY, PH.D., Commissioner of Education

ROGER L. MARCUM, Chairperson

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on January 23, 2014, at 2:00 p.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing 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 January 31, 2014. 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, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the inclusion of special student populations in the state-required assessment and accountability system that classifies 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 implementation of the statewide assessment and accountability system. The regulation provides procedures for inclusion of special populations in 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 guidance on the inclusion of student special populations in the state-required assessment and accountability programs. The regulation defines accommodations permitted with state-required testing for students with education plans (i.e., Individualized Education Program (IEP), 504 Plan and Program Services Plan for English learners) and for students enrolled in particular programs (i.e., alternative programs, state agency, home/hospital settings); and for students participating in the alternate assessment program.

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

(a) How the amendment will change this existing administrative regulation: The amendment makes policy changes (i.e., reduce prompting and cueing to a cue to remain on task; add a 3 x 5 notecard under manipulatives; for English learners, remove student-generated glossaries and focus on word-to-word translation); removes outdated terminology; reorganizes the document incorporated by reference and adds clarification.

(b) The necessity of the amendment to this administrative regulation: The amendment provides clarification on Kentucky's accommodation policy to improve the implementation in Kentucky classrooms.

(c) How the amendment conforms to the content of the authorizing statute: The amendment provides guidance on inclusion of special populations in 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 the amendment will assist in the effective administration of the statutes: The amendment provides necessary clarification on testing accommodations to ensure valid test results.

(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 guidance on the inclusion of students in special populations in assessment and 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: Staff in schools and school districts administers the state-required assessment using consistent rules and procedures. The amendment ensures consistent procedures for the inclusion of students in special populations.

(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 costs 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 clear guidance on the inclusion of students in special populations.

(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 new assessment and accountability program 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) 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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453, KRS 158.6455 and the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.

(3) 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.

(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.

(d) How much will it cost to administer this program for subsequent years? The proposed regulation will require no additional cost.

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
Kentucky Board of Education
Department of Education
(Amendment)

703 KAR 5:080. Administration Code for Kentucky's Educational Assessment Program.

RELATES TO: KRS 158.6453, 158.6455

STATUTORY AUTHORITY: KRS 156.070, 158.6453, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 requires the Kentucky Board of Education to promulgate administrative regulations to establish a system for identifying and rewarding successful schools and to establish appropriate consequences for schools failing to meet or exceed their assistance line. This administrative regulation establishes an Administration Code for Kentucky's Educational Assessment Program for appropriate testing practices for state required tests.

Section 1. Incorporation by Reference. (1) The "Administration Code for Kentucky's Educational Assessment Program", December 2013[dated May 2009, revised September 2009], is incorporated by reference.

(2) This document may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, Office of Assessment and Accountability, 18th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. through 4:30 p.m.

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(5).

TERRY HOLLIDAY, PH.D., Commissioner of Education
ROGER L. MARCUM, Chairperson

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on January 23, 2014, at 2:00 p.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing 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 January 31, 2014. 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, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: The revised regulation clarifies test administration and security procedures to ensure consistent implementation in the state-required assessment and accountability system that classifies 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 implementation of the statewide assessment and accountability system. The regulation provides test administration and security procedures in 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 guidance on the test administration and security procedures in the state-required assessment and accountability programs. The regulation provides a rationale, appropriate assessment practices, procedures for reporting concerns regarding errors in assessment materials, a process for violations of test administration and security procedures, for the review of secure assessment components and a proper reporting of student data and nonacademic indicators.

(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 incorporates test security suggestions from Kentucky's security audit; clarifies issues highlighted during the allegation process and in conversations with stakeholders; and makes language and format improvements.

(b) The necessity of the amendment to this administrative regulation: The amendment provides clarification on Kentucky's test administration and security procedures to improve the implementation in Kentucky classrooms.

(c) How the amendment conforms to the content of the authorizing statute: The amendment provides guidance test administration and security procedures in 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 the amendment will assist in the effective administration of the statutes: The amendment provides necessary clarification on test administration and security procedures to ensure valid test results.

(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:

(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: Staff in schools and school districts administers the state-required assessment using consistent rules and procedures. The amendment ensures consistent procedures.

(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 costs 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 clear guidance on test administration and security procedures.

(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 new assessment and accountability program 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) 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.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453, KRS 158.6455 and the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.

(3) 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.

(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.

(d) How much will it cost to administer this program for subsequent years? The proposed regulation will require no additional cost.

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:

LABOR CABINET

Kentucky Occupational Safety and Health Review Commission (Amendment)

803 KAR 50:010. Hearings; Procedure, Disposition.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS 338.071, 338.081

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Occupational Safety and Health Review Commission is authorized by KRS 338.071 and 338.081 to hear and rule on appeals from citations, notifications, and variances and adopt and promulgate rules and administrative regulations with respect to the procedural

aspect of its hearings. According to KRS 13B.020(3)(e)2a, these occupational safety and health hearings are conducted under the authority of KRS 338.071(4), 338.081 and 338.141(3). This administrative regulation is to provide for these hearings and their proper disposition.

Section 1. Definitions.[As used herein:] (1) "Act" means the Occupational Safety and Health Act of 1972, KRS Chapter 338.

(2) "Affected employee" or "employee" means an employee of a cited employer who is exposed to the alleged hazard described in the citation, as a result of his assigned duties.

(3) "Authorized employee representative" means a labor organization which has a collective bargaining relationship with a cited employer and which represents affected employees.

(4) "Citation" means a written communication issued by the commissioner to an employer pursuant to KRS 338.141.

(5) "Commission" means the Kentucky Occupational Safety and Health Review Commission.

(6) "Commissioner" means the commissioner of the Department of Workplace Standards, Labor Cabinet.

(7) "Day" means a calendar day.

(8) "Executive director" means the executive director of the review commission.

(9) "Hearing officer" means a hearing officer appointed by the commission pursuant to KRS 338.071(5) and 338.081.

(10) "Natural person" means an employer whose business is organized as a proprietorship or an affected employee who is not represented by a labor organization.

(11) "Notification of proposed penalty" means a written communication issued by the commissioner to an employer pursuant to KRS 338.141(1).

(12) "Proceeding" means any proceeding before the commission or before a hearing officer.

(13) "Representative" means an attorney authorized by a party or intervenor to represent him in a proceeding.

(14) "Working day" means all days except Saturdays, Sundays, or federal or state holidays.""Commission" means the Kentucky Occupational Safety and Health Review Commission.

(3) "Commissioner" means the Commissioner of the Department of Workplace Standards, Labor Cabinet.

(4) "Executive Director" means the Executive Director of the Review Commission.

(5) "Hearing Officer" means a hearing officer appointed by the commission pursuant to KRS 338.071 and 338.081.

(6) "Affected employee" or "employee" means an employee of a cited employer who is exposed to the alleged hazard described in the citation, as a result of his assigned duties.

(7) "Authorized employee representative" means a labor organization which has a collective bargaining relationship with a cited employer and which represents affected employees.

(8) "Representative" means any person, including an authorized employee representative, authorized by a party or intervenor to represent him in a proceeding.

(9) "Citation" means a written communication issued by the commissioner to an employer pursuant to KRS 338.141.

(10) "Notification of proposed penalty" means a written communication issued by the commissioner to an employer pursuant to KRS 338.141(1).

(11) "Day" means a calendar day.

(12) "Working day" means all days except Saturdays, Sundays, or federal or state holidays.

(13) "Proceeding" means any proceeding before the commission or before a hearing officer.

(14) Unless otherwise specified, definitions set forth in KRS 338.015 are hereby adopted by this review commission.]

Section 2. Meetings. (1) Regular meetings of the commission shall be held in its offices, Frankfort, Kentucky, on the first Tuesday of each month at 10:00[44] a.m., unless changed to another date, place, or time by commission action.

(2) Special meetings may be called by the chairman or by two (2) members of the commission, and shall be held at the[such] times and places as the call directs.

(3) The commission shall be considered as in continuous session for the performance of administrative duties.

(4) Two (2) members of the commission shall constitute a quorum.

Section 3. Assignment of Hearing; Filings. (1) Pursuant to KRS 338.081, cases coming before the commission may be assigned to a hearing officer within the discretion of the commission 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 commission. Further, the commission may, upon its own motion or on motion of any party, if granted, hold hearings[.] as provided under KRS 338.071, in which case provisions of this administrative regulation relating to hearing officers and hearings shall apply where applicable.

(2) A recommended order or adjudication by the hearing officer or the initial order of the review commission, if dismissed or disposed of as provided in subsection (1) of this section or if the commission sits for a hearing, shall become the final order of the commission[.] under the provisions of KRS 338.091, appealable to the Franklin Circuit Court[.] forty (40) days from date of issue, unless called for further review pursuant to Section 48 of this administrative regulation. In the event of review by the commission, an order of the commission determinative of issues before it shall become a final order as defined in KRS 338.091(1) upon date of issue.

(3) Prior to the assignment of a case to a hearing officer, all papers shall be filed with the executive director at the commission offices, #4 Millcreek Park,[Route #3, Millville Road,] Frankfort, Kentucky 40601. Subsequent to the assignment of the case to a hearing officer, and before the issuance of his decision, all papers shall be filed with the hearing officer at the address given in the notice informing of the[.] assignment. Subsequent to a decision of the hearing officer, all papers shall be filed with the executive director.

(4) Unless otherwise ordered, all filing may be accomplished by first-class mail.

(5) Filing is effective[deemed-effected] at the time of mailing.

Section 4. Scope of Rules; Applicability of Kentucky Rules of Civil Procedure. (1) These rules shall govern all proceedings before the commission 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 5. Words Denoting Number or Gender. (1) Words importing the singular number may extend and be applied to the plural and vice versa.

(2) Words importing masculine gender may be applied to feminine[or neuter gender] and vice versa.

Section 6. Computation of Time. (1) In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or federal or state holiday, in which event the period runs until the end of the next day[which is] not a Saturday, Sunday, or federal or state holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and federal or state holidays shall be excluded in the computation.

(2) Where service of a pleading or document is by mail pursuant to Section 3 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 7. Extensions of Time. Requests for extensions of time for the filing of any pleading or document shall[.] must] be received in advance of the date on which the pleading or document is due to be filed.

Section 8. Record Address. The initial pleading filed by any

person shall contain his name, address and telephone number. Any change in this[.] such] information shall[.] must] be communicated promptly to the hearing officer or the commission, as the case may be, and to all other parties and intervenors. A party or intervenor who fails to furnish the[.] such] information shall[.] be deemed to] have waived his right to notice and service under these rules.

Section 9. Service and Notice. (1) At the time of filing pleadings or other documents a copy thereof shall be served by the filing party or intervenor on every other party or intervenor.

(2) Service upon a party or intervenor who has appeared through an attorney[a representative] shall be made only upon the attorney[such representative].

(3) Unless otherwise ordered, service may be accomplished by postage prepaid first-class mail or by personal delivery. Service is effective[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. The[.] 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.

(6) Service and notice to employees represented by an authorized employee representative shall be[.] deemed] accomplished by serving its attorney[the representative] in the manner prescribed in subsection (3) of this section.

(7) In the event that there are any affected employees who are not represented by an authorized employee representative, the employer shall[.] immediately upon receipt of notice of contest or request for extension or modification of the abatement period[.] post, where the citation is required to be posted, a copy of the notice of contest and a notice informing the[.] such] affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times. A notice in the following form shall[.] be deemed to] comply with this paragraph:

(Name of employer)

Your employer has been cited by the Commissioner of the Department of Workplace Standards for violation of the Occupational Safety and Health Act of 1972. The citation has been contested and will be the subject of a hearing before the Occupational Safety and Health Review Commission. Affected employees are entitled to participate in this hearing as parties under terms and conditions established by the Occupational Safety and Health Review Commission in its rules of procedure. Notice of intent to participate shall[.] should] be sent to:

Kentucky Occupational Safety and Health Review Commission
#4 Millcreek Park[Route #3, Millville Road]
Frankfort, Kentucky 40601

All papers relevant to this matter may be inspected at: (Place reasonably convenient to employees, preferably at or near work place.)

(8) Where appropriate, the second sentence of the above notice will be deleted and the following sentence will be substituted: The reasonableness of the period prescribed by the Commissioner of the Department of Workplace Standards for abatement of the violation has been contested and will be the subject of a hearing before the Occupational Safety and Health Review Commission.

(9) The attorney for the authorized employee representative, if any, shall be served with the notice set forth above and with a copy of the notice of contest.

(10) A copy of the notice of the hearing to be held before the hearing officer shall be served by the employer on affected employees who are not represented by an authorized employee representative by posting a copy of the notice of the[.] such] hearing at or near the place where the citation is required to be posted.

(11) A copy of the notice of the hearing to be held before the hearing officer shall be served by the employer on the attorney for the authorized employee representative or affected employees in

the manner prescribed in subsection (3) of this section, if the employer has not been informed that the authorized employee representative has entered an appearance as of the date the[such] notice is received by the employer.

(12) Where a notice of contest is filed by an affected employee or an authorized employee representative, a copy of the notice of contest and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in subsection (7) of this section.

(13) An authorized employee representative who files a notice of contest shall be responsible for serving any other authorized employee representative whose members are affected employees.

(14) Where posting is required by this section, [such] posting shall be maintained until the commencement of the hearing or until earlier disposition.

Section 10. Consolidation. Cases may be consolidated on the motion of any party, on the hearing officer's own motion, or on the commission'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 11. Severance. Upon its own motion, or upon motion of any party or intervenor, the commission or the hearing officer may, for good cause, order any proceeding severed with respect to some or all issues or parties.

Section 12. Protection of Trade Secrets and Other Confidential Information. (1) Upon application by any person, in a proceeding where trade secrets or other matters may be divulged, the confidentiality of which is protected by law, the hearing officer shall issue [such] orders as may be appropriate to protect the confidentiality of those[such] matters.

(2) Interlocutory appeal from an adverse ruling under this section shall be granted as a matter of right.

Section 13. Employer or Employee Contests. (1) Where a notice of contest is filed by an employer contesting a citation or notification issued pursuant to KRS 338.031(1) ~~338.131~~, 338.141 (3), or 338.153, an employee or an authorized employee representative may elect party status by a request for intervention at any time before commencement of the hearing or, if no hearing is held, within the time period a motion for dismissal is required to be posted.

(2) Where a notice of contest is filed by an employee or by an authorized employee representative contesting a citation or notification issued pursuant to KRS 338.131, 338.141 or 338.153, the employer may elect party status at any time before commencement of the hearing or, if no hearing is held, within the time period a motion for dismissal is required to be posted.

Section 14. 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 commission or the hearing officer may grant a petition for intervention to the[such-an] extent and upon those[such] terms as the commission or the hearing officer shall determine.

(4) The caption of all cases where intervention is allowed shall reflect the[such] intervention by adding, to the caption after the name of the respondent, the name of the intervenor followed by the designation intervenor.

Section 15. Representatives of Parties and Intervenors. (1) Except for natural persons who may represent themselves, a party or intervenor shall appear through ~~Any party or intervenor may appear in person, through an attorney, or through another representative who is not~~ an attorney.

(2) A representative of a party or intervenor shall ~~be deemed~~

~~to~~ control all matters respecting the interest of the[such] party or intervenor in the proceeding.

(3) Affected employees who are represented by an authorized employee representative may appear only through the[such] authorized employee representative.

~~(4) Affected employees who are not represented by an authorized employee representative may elect party status by filing a request for intervention. In the absence of an appearance by a representative, a party or intervenor will be deemed to appear for himself. A corporation or unincorporated association may be represented by an authorized officer or agent.~~

(5) Withdrawal of appearance of any representative may be effected by filing a written notice of withdrawal and by serving a copy thereof on all parties and intervenors.

Section 16. Variance Contests. (1) An employer, employee or authorized employee representative who receives notification of an adverse ruling to an application for a variance made pursuant to KRS 338.153 may, within fifteen (15) working days of issuance of the[such] ruling, file a notice of contest with the Commissioner of the Department of Workplace Standards. The commissioner of the Department of Workplace Standards shall transmit the[such] notice, together with the complete record in the matter as compiled before the Commissioner of the Department of Workplace Standards, to the commission within seven (7) days of receipt, under authority of KRS 338.071(4).

(2) The commission may on its own order or on motion of any party, if granted, consider the matter on the record or may require further hearing or filings of information in the matter.

(3) All pertinent provisions relating to contests of citations, where applicable, shall apply.

Section 17. Request for Extension or Modification of Abatement. (1) Any party adversely affected by a ruling of the commissioner of the Department of Workplace Standards on any application for extension or modification of an abatement period may file an appeal from the[such] notification with the commissioner of the Department of Workplace Standards, provided an[such] appeal is filed within fifteen (15) working days from receipt of the[such] notice. The[Such] appeal shall be limited to the commissioner's ruling affecting the party's application for extension or modification of the abatement period.

(2) The commissioner of the Department of Workplace Standards shall transmit the[such] appeal to the commission ~~{}~~ within seven (7) days after its receipt, together with all pertinent and relevant records considered by the commissioner of the Department of Workplace Standards in making his ruling.

(3) The commissioner of the Department of Workplace Standards shall file a response to the[such] appeal within ten (10) days of receipt of notice of the[such] appeal.

(4) The commission may on its own order or on motion of any party, if granted, consider the matter on the record or may require further hearing, pleading or information in the matter.

Section 18. Form. (1) Except as provided herein, there are no specific requirements as to the form of any pleading. A pleading is simply required to contain a caption sufficient to identify the parties in accordance with Section 19 of this administrative regulation which shall include the commission's docket number, if assigned[;] and a clear and plain statement of the relief that is sought, together with the grounds therefor.

(2) Pleadings and other documents (other than exhibits) shall be typewritten, double spaced.

(3) Pleadings shall be signed by the party filing or by his representative. [Such] Signing constitutes a representation by the signer that he has read the document or pleading; that to the best of his knowledge, information and belief that statements made therein are true and that it is not interposed for delay.

(4) The commission may refuse for filing any pleading or document which does not comply with the requirements of subsections (1), (2), and (3) of this section.

(5) All pleadings shall be filed in duplicate unless otherwise indicated.

(6) Unless otherwise designated in this administrative regulation, any pleading shall be assumed to be~~as admitted as~~ correct as submitted unless a reply or denial is received within ten (10) days of receipt of the~~such~~ pleading.

Section 19. Captions. (1) Cases initiated by a notice of contest shall be titled: Commissioner of the Department of Workplace Standards, Complainant v. (Name of Contestant), Respondent.

(2) Cases initiated from an adverse ruling of the commissioner of the Department of Workplace Standards relative to a variance or by a request for extension or modification of the abatement period shall be titled: (Name of Petitioner), Petitioner v. Commissioner of the Department of Workplace Standards, Respondent.

(3) The titles listed in subsections (1) and (2) of this section shall appear at the left upper portion of the initial page of any pleading or document (other than exhibits) filed.

(4) The initial page of any pleading or document (other than exhibits) shall show, at the upper right of the page~~;~~ opposite the title, the docket number~~;~~~~if known;~~ assigned by the commission.

Section 20. Notices of Contest of Citations. (1) Any employer, employee or authorized employee representative may contest any citation issued pursuant to KRS 338.141.

(2) When a notice of contest is received by the commissioner the original and one (1) copy of the notification of contest shall be transmitted to the commission together with copies of all relevant documents, within seven (7) days of receipt of notice by the commissioner.

(3) Complaint.

(a) The commissioner shall file a complaint with the commission no later than twenty (20) days after his receipt of the notice of contest.

(b) The complaint shall set forth all alleged violations and proposed penalties which are contested, stating with particularity:

1. The basis for jurisdiction;

2. The time, location, place and circumstances of each~~such~~ alleged violation; and

3. The considerations upon which the period for abatement and the proposed penalty on each alleged violation is based.

(c) Where the commissioner seeks in his complaint to amend his citation or proposed penalty, he shall set forth the reasons for amendment and shall state with particularity the change sought.

(4) Answer.

(a) Within fifteen (15) days after service of the complaint, the party against whom the complaint was issued shall file an answer with the commission.

(b) The answer shall contain a short and plain statement denying those allegations in the complaint which the party intends to contest. Any allegation not denied is~~shall be deemed~~ admitted.

Section 21. 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 22. Response to Motions. Any party or intervenor upon whom a motion is served shall have ten (10) days from service of the motion to file a response.

Section 23. Failure to File. Failure to file any pleading pursuant to these rules when due~~;~~ may, in the discretion of the commission or the hearing officer, constitute a waiver of right to further participation in the proceedings.

Section 24. Withdrawal of Notice of Contest. At any stage of a proceeding, a party may withdraw his notice of contest, subject to the approval of the commission.

Section 25. Prehearing Conference. (1) At any time before a hearing, the commission 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 commission or the hearing officer may issue a prehearing order which includes the agreements reached by the parties. The~~Such~~ order shall be served on all parties and shall be a part of the record.

Section 26. 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 a~~such~~ shorter or longer time as the commission or the hearing officer may prescribe, the party to whom the request is directed serves upon the party requesting the admission~~off~~ 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 commission within the time allotted and shall be a part of the record.

Section 27. Discovery Depositions and Interrogatories. (1) Except by special order of the commission or the hearing officer, discovery depositions of parties, intervenors or witnesses and interrogatories directed to parties, intervenors or witnesses shall not be allowed.

(2) In the event the commission 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 28. Failure to Comply With Orders for Discovery. If any party or intervenor fails to comply with an order of the commission or the hearing officer to permit discovery in accordance with the provisions of these rules, the commission or the hearing officer may issue appropriate orders.

Section 29. Issuance of Subpoenas; Petitions to Revoke or Modify Subpoenas; Right to Inspect or Copy Data. (1) Any member of the commission shall, on the application of any party directed to the commission, forthwith issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including relevant books, records, correspondence or documents in his possession or under his control. Applications for subpoenas, if filed subsequent to the assignment of the case to a hearing officer, may be filed with the hearing officer. A hearing officer shall grant the application on behalf of any member of the commission. Applications for subpoenas may be made ex parte. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.

(2) Any person served with a subpoena, whether ad testificandum or duces tecum, shall~~;~~ within five (5) days after the date of service of the subpoena upon him~~;~~ move in writing to revoke or modify the subpoena if he does not intend to comply. All motions to revoke or modify shall be served on the party at whose request the subpoena was issued. The hearing officer or the commission, as the case may be, shall revoke or modify the subpoena if, in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid. The hearing officer or the commission, as the case may be, shall make a simple statement of procedural or other grounds for the ruling on the motion to revoke or modify. The motion to revoke or modify~~;~~ any answer filed thereto~~;~~ and the ruling thereon shall become a part of the record.

(3) Persons compelled to submit data or evidence at a public proceeding are entitled to retain or, on payments of lawfully prescribed costs, to procure copies of transcripts of the data or evidence submitted by them.

(4) Upon the failure of any person to comply with a subpoena issued upon the request of a party, the commission by its counsel

shall initiate proceedings in the Franklin Circuit Court or appropriate circuit court for the enforcement thereof[;] if, in its judgment, the enforcement of the[such] subpoena would be consistent with law and with policies of the Act. Neither the commission nor its counsel ~~is responsible[shall be deemed thereby to have assumed responsibility]~~ for the effective prosecution of the same before the court.

Section 30. Notice of Hearing. (1) Notice of the time, place, and nature of a hearing shall be given to the parties and intervenors at least ten (10) days in advance of the[such] hearing, except as otherwise provided in Section 52 of this administrative regulation.

(2) Copy of notice of hearing shall be served by the employer on affected employees or[and/or] the affected employees' representative as provided in Section 9 (9) and (10) of this administrative regulation, if no information has been received by the employer as to employee intervention in the case before the commission. Notice of hearing will be given by the commission to any party or[-] intervenor.

(3) The hearing officer[executive director] shall secure or cause to be secured a location for the[such] hearing~~[- in the discretion of the commission,]~~ and secure a reporter for the taking of proof at any hearing.

Section 31. Postponement of Hearing. (1) Postponement 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.

(3) Postponement of hearing not in excess of thirty (30) days may be granted in the discretion of the hearing officer. One (1) additional postponement not in excess of thirty (30) days may be granted by the hearing officer in extreme emergency or under unusual circumstances. No additional postponement may be granted without commission approval.

Section 32. 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 and to request commission review pursuant to Section 48 of this administrative regulation.

(2) Requests for reinstatement shall[must] be made, in the absence of extraordinary circumstances, within five (5) days after the scheduled hearing date.

(3) The commission or the hearing officer[;] upon a showing of good cause[;] may excuse the[such] failure to appear. In the[such] event, the hearing will be rescheduled.

Section 33. Payment of Witness Fees and Mileage; Fees of Persons Taking Depositions. Witnesses summoned before the commission or the hearing officer shall be paid the same fees and mileage that are paid witnesses in the courts of the Commonwealth of Kentucky and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the Commonwealth of Kentucky. Witness fees and mileage shall be paid by the party at whose instance the witness appears, and the person taking a deposition shall be paid by the party at whose instance the deposition is taken.

Section 34. Reporter's Fees. Reporter's fees shall be borne by the commission, except as provided in Section 33 of this administrative regulation.

Section 35. 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 intervenors of the[such] filing. Participants desiring copies of[such]

transcripts may obtain the same from the official reporter upon payment of fees fixed therefor.

Section 36. 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 and[;] 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 commission, to:

- (1) Administer oaths and affirmations;
- (2) Issue authorized subpoenas;
- (3) Rule upon petitions to revoke subpoenas;
- (4) Rule upon offers of proof and receive relevant evidence;
- (5) Take or cause depositions to be taken whenever the needs of justice would be served;
- (6) 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;
- (7) Hold conferences for the settlement or simplification of the issues;
- (8) Dispose of procedural requests or similar matters including motions referred to the hearing officer by the commission 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 his decision;
- (9) Call and examine witnesses and to introduce into the record documentary or other evidence;
- (10) 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;
- (11) Adjourn the hearing as the needs of justice and good administration require;
- (12) Take any other action necessary under the foregoing and authorized by the published rules and administrative regulations of the commission.

Section 37. Disqualification of Hearing Officer. (1) A hearing officer may withdraw from a proceeding whenever disqualification is warranted[he deems himself disqualified].

(2) Any party may request the hearing officer at any time, following his designation and before the filing of his decision, to withdraw on grounds of personal bias or disqualification by filing with him promptly upon the discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(3) If, in the opinion of the hearing officer the affidavit referred to in subsection (2) of this section is filed with due diligence and is sufficient on its face, the hearing officer shall forthwith disqualify himself and withdraw from the proceeding.

(4) If the hearing officer does not disqualify himself and withdraw from the proceedings, he shall so rule upon the record, stating the grounds for his ruling, and shall proceed with the hearing[;] or, if the hearing has closed, he shall proceed with the issuance of his decision and the provisions of Section 47 of this administrative regulation shall thereupon apply.

Section 38. Examination of Witnesses. Witnesses shall be examined orally under oath. Opposing parties shall have the right to cross-examine any witness whose testimony is introduced by an adverse party.

Section 39. Affidavits. An affidavit may be admitted as evidence in lieu of oral testimony if the matters therein contained are otherwise admissible and the parties agree to its admission.

Section 40. Deposition in Lieu of Oral Testimony; Application; Procedures; Form; Rulings. (1) An application to take the deposition of a witness in lieu of oral testimony shall be in writing and shall set forth the reasons a[such] deposition should be taken. The application shall contain[;] the name and address of the witness[;] the matters concerning which it is expected he will

testify~~;~~ and the time and place proposed for the taking of the deposition~~;~~ together with the name and address of the person before whom it is desired that the deposition be taken (for purposes of this section~~;~~ hereinafter referred to as the officer). The[Such] application shall be filed with the commission or the hearing officer, as the case may be, and shall be served on all other parties and intervenors not less than seven (7) days (when the deposition is to be taken elsewhere) prior to the time when it is desired that the deposition be taken. Where good cause has been shown, the commission or the hearing officer shall make and serve on the parties and intervenors an order which specifies the name of the witness whose deposition is to be taken and the time, place, and designation of the officer before whom the witness is to testify. The[Such] officer may or may not be the officer specified in the application.

(2) The[Such] deposition may be taken before any officer authorized to administer oaths by the laws of Kentucky or of the place where the examination is held. If the examination is held in a foreign country, it may be taken before any secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States.

(3) At the time and place specified in the order, the officer designated to take the[such] deposition shall permit the witness to be examined and cross-examined under oath by all parties appearing, and the testimony of the witness shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be~~deemed~~ waived unless made at the examination. The officer shall not have power to rule upon any objection, but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him; that the deposition is a true record of the testimony and exhibits given by the witness; and that the officer is not of counsel or attorney to any of the parties nor interested in the proceeding. If the deposition is not signed by the witness because he is ill, dead, cannot be found,~~or~~ refuses to sign it, or will be unavailable to sign the typed deposition and it is so stated by agreement, the[such] fact shall be included in the certificate of the officer and the deposition may be used as fully as though signed. The officer shall immediately deliver an original~~and three (3) copies~~ of the transcript, together with his certificate, in person or by certified[registered] mail to the Executive Director, Kentucky Occupational Safety and Health Review Commission, #4 Millcreek Park,~~Route #3, Millville Road,~~ Frankfort, Kentucky 40601.

(4) The hearing officer shall rule upon the admissibility of the deposition or any part thereof.

(5) All errors or irregularities in compliance with the provisions of this section shall be~~deemed~~ waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after the[such] defect is, or with due diligence might have been, discovered.

(6) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used as other depositions.

Section 41. Exhibits. (1) All exhibits offered in evidence shall be numbered and marked with a designation identifying the party or intervenor by whom the exhibit is offered.

(2) In the absence of objection by another party or intervenor, exhibits shall be admitted into evidence as a part of the record, unless excluded by the hearing officer pursuant to Section 42 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 designated for rejected exhibits.

Section 42. Rules of Evidence. Hearings before the commission and its hearing officers insofar as practicable shall be governed by the rules of evidence applicable in the courts of the

Commonwealth of Kentucky.

Section 43. Burden of Proof. (1) In all proceedings commenced by the filing of a notice of contest, the burden of proof shall rest with the commissioner.

(2) In proceedings commenced by a request for extension or modification of the abatement period, the burden of establishing the necessity for the[such] extension or modification shall rest with the petitioner.

(3) In all proceedings commenced by appealing from an adverse ruling on a variance application, the burden of proving the inequity of the ruling of the commissioner of the Department of Workplace Standards shall rest on the petitioner-complainant.

Section 44. 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 the[such] evidence may make an offer of proof, which shall be included in the record of the proceeding.

Section 45. Interlocutory Appeals; Special; as of Right. (1) Unless expressly authorized by these rules, rulings by the hearing officer may not be appealed directly to the commission except by its special permission. Unless otherwise provided by these rules, all~~such~~ rulings shall become a part of the record.

(2) Request to the commission for special permission to appeal from a[such] ruling shall be filed in writing within five (5) days following receipt of the ruling and shall state briefly the grounds relied on.

(3) Interlocutory appeal from a ruling of the hearing officer shall be allowed as of right where the hearing officer certifies that:

(a) The ruling involves an important question of law concerning which there is substantial ground for difference of opinion; and

(b) An immediate appeal from the ruling will materially expedite the proceedings. An[Such] appeal shall also be allowed in the circumstances set forth in Section 12 of this administrative regulation.

(4) Neither the filing of a petition for interlocutory appeal nor the granting thereof as provided in subsections (2) and (3) of this section shall stay the proceedings before the hearing officer unless a[such] stay is specifically ordered by the commission.

Section 46. Filing of Briefs and Proposed Findings with the Hearing Officer; Oral Argument at the Hearing. (1) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief, proposed findings of fact and conclusions of law, or both, with the hearing officer. The hearing officer may fix a reasonable period of time for the[such] filing, but the initial period shall not exceed thirty (30) days from the receipt by the party of the transcript of the hearing or the date the hearing officer designates by order of his receipt. The complainant shall have fifteen (15) days to file, the respondent ten (10) days and the complainant five (5) days for reply, unless a shorter period is agreed on by all parties. Intervenors shall have until the 25th day of the thirty (30) day period in which to file briefs.

(2) All briefs shall~~must~~ be filed within the time fixed and the hearing officer or the commission may refuse to consider any brief filed thereafter. Application for extension of time to file briefs shall~~must~~ be made to the hearing officer or commission before whom hearing was held.

(3) Briefs shall~~must~~ be accompanied with notice~~;~~ showing service upon all other parties;~~and~~ in addition to the original filed, three (3) copies of each ~~such~~ document shall be furnished to the commission.

Section 47. Decisions of Hearing Officers. (1) The decision of the hearing officer shall include findings of fact, conclusions of law, and a recommended order disposing of all issues before him.

(2) The hearing officer shall sign the decision and forward to the executive director. The executive director shall then date and issue the[such] decision, sending a copy to all parties of record and to each commission member. Upon issuance of the recommended order, jurisdiction shall rest solely in the commission, and all motions, petitions and other pleadings filed subsequent to its[such] issuance shall be addressed to the commission.

(3) The recommended order of the hearing officer may be called for further review by any commission member or by the commission as a whole at any time within a forty (40) day period. If the recommended order is not ordered for further review, it shall become the final order of this commission forty (40) days after date of issuance. If a recommended order is called for review by a commissioner or the commission on its own order, parties will be advised in order that briefs may be submitted if desired. The commission will set the briefing time.

Section 48. Discretionary Review; Petition. (1) A party aggrieved by the decision of a hearing officer may submit a petition for discretionary review.

(2) The petition shall[must] be received by the commission at its offices in Frankfort, Kentucky on or before the 25th day following receipt by the commission of the hearing officer's decision.

(3) A petition shall[should] contain a concise statement of each portion of the decision and order to which exception is taken and may be accompanied by a brief of points and authorities relied upon. The original and three (3) copies shall be filed with the commission.

(4) Statements in opposition to petitions for discretionary review may be filed at any time during the review period, if received by the commission on or before the 35th day from date of the issuance of the recommended order. The[Such] statement shall contain a concise statement on each portion of the petition for discretionary review to which it is addressed.

(5) The commission while reviewing a case may request briefs on any point, and shall set the time for filing[such-filings].

(6) The original and three (3) copies of all briefs or statements provided for under this section and Section 47 of this administrative regulation shall be furnished for use of the commission.

(7) Failure to act on any petition for discretionary review in the review period shall be deemed a denial thereof.

Section 49. Stay of Final Order. (1) Any party aggrieved by a final order of the commission may, while the matter is within the jurisdiction of the commission, file a motion for a stay.

(2) The[Such] motion shall set forth the reasons a stay is sought and the length of the stay requested.

(3) The commission may order a[such] stay for the period requested or for a[such] longer or shorter period as it finds[deems] appropriate.

Section 50. Oral Argument Before the Commission. (1) Oral argument before the commission ordinarily will not be allowed.

(2) In the event the commission desires to hear oral argument with respect to any matter, it will advise all parties to the proceeding of the date, hour, place, time allotted, and scope of the[such] argument at least ten (10) days prior to the date set.

Section 51. Settlement or Dismissals. (1) Settlement is encouraged at any stage of the proceedings where a[such] settlement is consistent with the provisions and objectives of the Act.

(2) Settlement agreements submitted by the parties shall be accompanied by an appropriate proposed order. The[Such] settlement agreement shall detail the basis for [such] settlement, either by order or a stipulated agreement properly signed by all parties.

(3) Where parties to settlement agree upon a proposal, it shall be served upon represented and unrepresented affected

employees in the manner set forth in Section 9 of this administrative regulation. Proof of [such] service shall accompany the proposed settlement when submitted to the commission or the hearing officer showing the[such] notice to [such] employees or authorized employee representative ten (10) days before submission to the hearing officer or the commission.

(4) In any action on a citation on motion of either party for dismissal, the motion shall state the reason for [such] dismissal and show posting for ten (10) days as required for settlement agreements. In cases where dismissal is moved by the respondent, respondent shall also show abatement of cited violation and payment of any penalty, if applicable.

Section 52. Expedited Proceeding. (1) Upon application of any party or intervenor, or upon his own motion, any commission member may order an expedited proceeding.

(2) When an expedited[such] proceeding is ordered, the executive director shall notify all parties and intervenors.

(3) The hearing officer assigned in an expedited proceeding shall make necessary rulings, with respect to time for filing of pleadings and with respect to all other matters, without reference to times set forth in these rules, shall order daily transcripts of the hearing and shall do all other things necessary to complete the proceeding in the minimum time consistent with fairness.

Section 53. Standards of Conduct. All persons appearing in any proceeding shall conform to the standards of ethical conduct required in the courts of the Commonwealth of Kentucky.

Section 54. Ex Parte Communication. (1) There shall be no ex parte communication, with respect to the merits of any case not concluded, between the commission, including any member, officer, employee, or agent of the commission who is employed in the decisional process, and any of the parties or intervenors.

(2) In the event an[such] ex parte communication occurs, the commission or the hearing officer may make [such] orders or take [such] action as fairness requires. Upon notice and hearing, the commission may take [such] disciplinary action as is appropriate in the circumstances against any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

Section 55. Restrictions as to Participation by Investigative or Prosecuting Officers. In any proceeding noticed pursuant to the rules in this part, the commissioner shall not participate or advise with respect to the report of the hearing officer or the commission decision.

Section 56. Inspection and Reproduction of Documents. (1) Subject to the provisions of law restricting public disclosure of information, any person may, at the offices of the commission, inspect and copy any document filed in any proceeding.

(2) Costs shall be borne by the requesting[such] person.

Section 57. Restrictions with Respect to Former Employees. (1) No former employee of the commission or the commissioner (including a member of the commission or the executive director) shall appear before the commission as an attorney ~~or other representative~~ for any party in any proceeding or other matter, formal or informal, in which he participated personally and substantially during the period of his employment.

(2) No former employee of the commission or the commissioner (including a member of the commission or the executive director) shall appear before the commission as an attorney ~~or other representative~~ for any party in any proceeding or other matter, formal or informal, for which he was personally responsible during the period of his employment, unless one (1) year has elapsed since the termination of his [such] employment.

Section 58. Amendments to Rules. The commission may at any time upon its own motion or initiative, or upon written suggestion of any interested person setting forth reasonable grounds therefor, amend or revoke any of the rules contained

herein, in compliance with KRS Chapter 13A[13].

Section 59. Special Circumstances, Waiver of Rules. In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the commission may, upon application by any party or intervenor, or on its own motion, after three (3) days notice to all parties and intervenors, waive any rule or issue[make such] orders as justice or the administration of the Act requires.

Section 60. Penalties. All penalties assessed by the commission are civil.

LEE E. JACOBS, Executive Director

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation will be held on January 23, 2014 at 10:30 a.m. Eastern Time at the Kentucky Occupational Safety and Health Review Commission, # 4 Mill Creek Park, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed amendment to the 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 amended administrative regulation. Written comments shall be accepted until January 31, 2014, at 11:59 p.m. Send written notification of intent to be heard at the public hearing or written comments on the proposed amended administrative regulation to the contact person.

CONTACT PERSON: Eddie Jacobs, Executive Director, Kentucky Occupational Safety and Health Review Commission, # 4 Mill Creek Park, Frankfort, Kentucky 40601, phone (502) 573-6892, fax (502) 573-4619.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Eddie Jacobs

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets out the legal procedures that parties to a contested occupational safety and health citation must follow to litigate the case before the Kentucky Occupational Safety and Health Review Commission and its hearing officers. The Kentucky Labor Cabinet, the enforcer of the Kentucky Occupational Safety and Health Act, is always the complainant, the prosecutor of the citation. A cited employer, a private business, a public entity or a state or local governmental entity, is always the respondent. An employee or an authorized employee representative (a labor organization) may elect party status. A person may move to intervene in the case and will be admitted if he can show his participation will assist in the determination of the issues. This procedural regulation provides procedural rights and due process of law to the litigants. This procedural regulation is exempted from KRS Chapter 13B by KRS 13B.020(3)(e)2a.

(b) The necessity of this administrative regulation: KRS 338.071(4) authorizes the Kentucky Occupational Safety and Health Review Commission to "hear and rule on appeals from citations." KRS 338.071(4) also authorizes the review commission to "adopt and promulgate rules and regulations with respect to the procedural aspect of its hearings." This procedural regulation creates a legal framework which enables the review commission to perform its statutory duty to hear and rule on appeals from citations. This administrative regulation enables the parties, before the commission and its hearing officers, to litigate the citation contest cases to protect their rights according to law. The regulation essentially serves the same purpose as the Kentucky rules of civil procedure, but adopted for administrative trials before

the review commission. This regulation, at section 42, says "Hearings before the commission and its hearing officers insofar as practicable shall be governed by the rules of evidence applicable to the courts of the Commonwealth of Kentucky."

(c) How this administrative regulation conforms to the content of the authorizing statute? KRS 338.071(4) grants the review commission the authority to promulgate rules and regulations for the procedural aspect of its hearings. This regulation provides that procedural framework.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes? In order for the review commission to perform its statutory function to hear and rule on appeals from citations and to hold hearings under the authority of KRS 338.141 (3), the commission must have a procedural framework; this regulation provides that procedural framework to hold administrative hearings. Hearings are held before the hearing officer who issues a recommended order. The review commission acts as an administrative review board when it grants discretionary review of a hearing officer's recommended order. Final review commission decisions may be appealed to Franklin Circuit Court. KRS 338.091(1).

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

(a) How the amendment will change this existing administrative regulation? The amendment to Section 15 of the regulation requires all corporations and other artificial entities that elect to appear in a case before the commission to hire an attorney to represent them.

(b) The necessity of the amendment to this administrative regulation: The Kentucky Bar Association's Unauthorized Practice of Law Opinion, KBA U-64, November 2012, says "a corporation or other artificial entity" must be represented by a licensed attorney when appearing as a party before an administrative agency conducting a hearing. A copy of KBA U-64 is attached as exhibit 1 to this submission.

(c) How the amendment conforms to the content of the authorizing statutes? This amendment which now requires all corporations and other artificial entities to be represented by counsel when appearing before the review commission does not alter the review commission's statutory duty to hear and rule on appeals from citations, to hold hearings and to provide discretionary review of recommended orders issued by hearing officers.

(d) How the amendment will assist in the effective administration of the statutes: In the body of the unauthorized practice of law opinion, KBA U-64, the Bar Association says "The compelling reason for such regulation is to protect the public against rendition of legal services by unqualified persons."

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All corporations which have been cited by the Kentucky Labor Cabinet for alleged violations of the Kentucky Occupational Safety and Health Act will be affected as well as "other artificial" entities which elect to appear as parties in cases coming before the review commission.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by 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 amendment. Each corporation or "other artificial entity," including but not limited to labor unions and state and local governmental entities, electing to be a party to an occupational safety and health case before the review commission must secure an attorney to represent them.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to the entities identified in question (3) will depend on the negotiations between the entity in question and the attorney.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): These entities will benefit from the

legal representation they receive from their attorney.

(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? This agency receives its funding from the Workers' Compensation Funding Commission.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increased any fees: This administrative regulation will not establish any fees. This administrative regulation will not increase any fees; there are no fees associated with this regulation.

(9) TIERING: Is tiering applied? No tiering is required or possible. Each regulated entity affected by this amended administrative regulation shall be affected in the same manner. Each regulated entity, corporation or other artificial entity, that wishes to participate as a party to a case before the review commission shall be required to hire an attorney.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Any division of state or local government that receives an occupational safety and health citation from the Kentucky Labor Cabinet, the enforcer of the act, will be impacted if it elects to file a notice of contest to the citation. When an employer files a notice of contest according to KRS 338.141 (3), the review commission "shall afford an opportunity for a hearing." The hearing process is controlled by this regulation; this regulation and the amendment require any "artificial entity" to hire an attorney to represent it before the commission.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the regulation. KRS 338.071 (4) authorizes the review commission to hear and rule on appeals from citations; this same statute authorizes the commission to promulgate this procedural regulation, 803 KAR 50:010. KRS 338.141 (3) states that when an employer files a notice of contest, the review commission shall afford the opportunity for a hearing. The Kentucky Bar Association's unauthorized practice of law opinion, KBA U-64, states a "corporation or other artificial entity" must hire an attorney to represent it before the commission. KBA U-64 compelled this commission to submit this amended regulation requiring such representation.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local governmental 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 administrative regulation and the instant, proposed amendment will generate no revenue for any 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 administrative regulation and the instant, proposed amendment will generate no revenue for any year.

(c) How much will it cost to administer this program for the first year? There is no administrative cost associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? There is no administrative cost associated with this regulation for the first year or for any year. Having said that, any state or local government that elects to file a notice of contest

to an occupational safety and health citation must arrange to have a lawyer represent it before the commission; if the state or local governmental entity does not have an in-house attorney to represent it, it must hire outside counsel. We have no ability to estimate the fiscal impact on a state or local governmental entity that hires an attorney to represent it before the review commission; such representation would be a matter of negotiation between the governmental entity and the attorney.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This regulation creates no fiscal impact.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET Department of Alcoholic Beverage Control (Amendment)

804 KAR 1:110. Distilled spirits and wine tastings.

RELATES TO: KRS 244.240, 244.050

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 244.240 prohibits a distiller, rectifier, winery, or wholesaler from making any gift or rendering any kind of service to any licensee under KRS 243.030 which in the sound judgment of the board may tend to influence the licensee to purchase the product of the distiller, rectifier, winery, or wholesaler. This administrative regulation permits a distiller, rectifier, winery, or wholesaler of distilled spirits or wine to conduct educational meetings with a retailer of distilled spirits or wine consistent with modern marketing practices and three (3)-tier law. ~~[This administrative regulation is designed to regulate said educational meetings sponsored by suppliers and/or wholesalers for retail liquor licensees in a manner consistent with modern marketing practices and in conformance with relevant statutory provisions and legislative intent. Such educational affairs serve a useful purpose for the industry and the consuming public.]~~

Section 1. A distiller, rectifier, winery, or wholesaler of distilled spirits or wine licensed under KRS 243.030 is permitted to conduct an educational meeting for the purpose of introducing new product or packaging, if:

(1) The meeting is held at a premises licensed to sell alcoholic beverages at retail;

(2) Each attendee holds or is employed by the holder of a license to sell distilled spirits or wine at retail;

(3) No minor possesses an alcoholic beverage;

(4) Only distilled spirits, wine, and hors d'oeuvres are served;

(5) No attendee carries an alcoholic beverage away from the licensed premises at which the educational meeting takes place;

(6) No attendee keeps any gift or favor received in connection with the educational meeting;

(7) The distiller, rectifier, winery, or wholesaler gives the Department of Alcoholic Beverage Control at least ten (10) days advance written notice of the time and place of the educational meeting, details of the planned activities, and the estimated cost per attendee; and

(8) The educational meeting does not include a distillery or winery tour.

Section 2. (1) A distiller, winery, or wholesaler of distilled spirits or wine is permitted to participate in a private party or fundraiser conducted by a bona fide charitable organization, church, or civic group at which distilled spirits or wine is served, if:

(a) The private party or fundraiser takes place at a premise licensed or temporarily licensed to sell distilled spirits or wine by the drink at retail;

(b) The bona fide charitable organization, church, or civic group purchases all distilled spirits and wine for the private party or fundraiser from the retail licensee at whose premises it takes place; and

(c) The participation of a distiller, winery, or wholesaler of distilled spirits or wine is limited to addressing the attendees, distributing literature, and pouring and serving distilled spirits or wine.

(2) The distiller, rectifier, winery, or wholesaler that is conducting the event and retail licensee shall be liable for any violation of alcoholic beverage control law related to the event.

Section 3. (1) A distiller, winery, small farm winery, or wholesaler of distilled spirits or wine is permitted to participate in a sampling event, if:

(a) The sampling event strictly complies with KRS 244.050(3), and takes place at a retail licensed premises where a sampling license authorized by KRS 244.050(2) is held;

(b) The retail license holder at whose premises the sampling event takes place purchases the samples from a licensed wholesaler of distilled spirits or wine before selling them at retail; and

(c) The participation of a distiller, winery, small farm winery, or wholesaler of distilled spirits or wine is limited to addressing the customers, distributing literature, and pouring and serving distilled spirits or wine.

(2) The distiller, winery, small farm winery, or wholesaler that is conducting the event and retail licensee shall be liable for any violation of alcoholic beverage control law related to the event. [Educational meetings, such as wine tastings and the introduction of new product or special packaging, sponsored by distillers, rectifiers, wineries, or wholesalers for retail licensees under KRS 243.030 are permitted provided:

(1) Such meetings are held on licensed premises, other than premises licensed for the sale of package liquor at retail.

(2) Guests limited to retail liquor licensees and their employees.

(3) No service of any alcoholic beverage be made to minors.

(4) Activity limited to serving distilled spirits and/or wine and hors d'oeuvres.

(5) No alcoholic beverages may be given to be carried away from licensed premises by invited guests.

(6) No gift, or favor, of any kind may be given to the guests to be taken from the premises at which the meeting is conducted.

(7) Ten (10) days prior written notification must be given to Kentucky Office of Alcoholic Beverage Control containing detailed plans of the activity including estimated cost per guest.

(8) The activity does not include distillery and winery tours.

Section 2. Distillers, wineries, and wholesalers may participate in private parties or fund raisers conducted by bona fide charitable organizations, church groups, civic groups and individuals at which distilled spirits and/or wine is served provided:

(1) The private party or fund raiser is held at a location licensed for sale of distilled spirits and wine by the drink or for which a special temporary drink license is issued.

(2) The distilled spirits and/or wine served is purchased through the retail license holder at the premises at which the event is held and paid for by the sponsoring organization.

(3) Industry participation is limited to furnishing pamphlets, literature, and personnel to address the assembly, and serve the beverages.]

FREDERICK A. HIGDON, Chairman

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 9, 2013

FILED WITH LRC: December 11, 2013 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2014, at 9 a.m., EDT, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this Department in writing by January 20, 2014, five working days 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. 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 comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2014. 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: Trey Hieneman, Special Assistant, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 564-4850, fax (502) 564-7479.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Trey Hieneman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the criteria for educational meetings sponsored by alcoholic beverage suppliers or wholesalers.

(b) The necessity of this administrative regulation: KRS 244.240 prohibits a distiller, rectifier, winery, or wholesaler from making any gift or rendering any kind of service to any licensee under KRS 243.030. This regulation is necessary to allow suppliers and wholesalers to hold educational meetings for retailers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 241.060 (1) authorizes the board promulgate administrative regulations governing the use and trafficking of alcoholic beverages. KRS 244.050 establishes a sampling license and the parameters in which a sampling event may be held.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute. This administrative regulation enables the board to protect the three (3) tier system by allowing wholesalers and suppliers to educate consumers about their product, while protecting retailers from providing free alcoholic beverages to consumers.

(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 to the administrative regulation will allow for tasting of distilled spirits, in addition to wine.

(b) The necessity of the amendment to this administrative regulation: This amendment to this administrative regulation to clarify what may be consumed at an educational meeting.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 241.060 (1) authorizes the board promulgate administrative regulations governing the use and trafficking of alcoholic beverages. KRS 244.050 establishes a sampling license and the parameters in which a sampling event may be held.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation enables the board to protect the three (3) tier system by allowing wholesalers and suppliers to educate consumers about their product, while protecting retailers from providing free alcoholic beverages to consumers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment to the administrative regulation will affect anyone who is qualified to hold a sampling license pursuant to KRS 244.050.

(4) Provide an analysis of how 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:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: The previously mentioned businesses will not have to take any actions to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost is associated with this amendment.

(c) As a result of compliance, what benefits will accrue to the

entities identified in question (3): The previously mentioned businesses shall now be allowed to host educational meetings, so long as they comply with KRS 244.050.

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

(a) Initially: No extra costs are anticipated to implement this administrative regulation amendment.

(b) On a continuing basis: None.

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

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

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

(9) TIERING: Is tiering applied? No tiering is applied. There are no costs associated with administering this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What unit, part, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation. The Kentucky Department of Alcoholic Beverage Control is the only government entity affected by this amendment.

2. Identify each state or federal statute or federal regulation that authorizes the action taken by the administrative regulation. KRS 241.060 (1) authorizes the board promulgate administrative regulations governing the use and trafficking of alcoholic beverages. KRS 244.050 establishes a sampling license and the parameters in which a sampling event may be held.

3. 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). This amendment will have no effect on expenditures or revenue of any level of government.

(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 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 will be generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? The cost to administer this amendment should be minimal, if any.

(d) How much will it cost to administer this program for subsequent years? The cost to administer this amendment should be minimal, if any.

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: Additional costs to administer these regulatory changes at the local government level for this year or subsequent years should be minimal or none.

PUBLIC PROTECTION CABINET Department of Alcoholic Beverage Control (Amendment)

804 KAR 4:400. ABC basic application and renewal form incorporated by reference.

RELATES TO: KRS 164.772, 241.060(1), 243.090, 243.380, 243.390

STATUTORY AUTHORITY: KRS 241.060(1), 243.380, 243.390

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate reasonable administrative regulations governing procedures relative to the applications for and revocation of licenses. KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the license application form. This administrative regulation prescribes the basic form to be used to apply for an alcoholic beverage license.

Section 1. An applicant for an alcoholic beverage license shall complete ~~[, have notarized,]~~ and submit to the Department of Alcoholic Beverage Control the Basic Application for Alcoholic Beverage Licenses, with the exception of an applicant for:

(1) A special agent/solicitor license, out-of-state producer/supplier of distilled spirits/wine license, or out-of-state producer/supplier of malt beverage license;

(2) A temporary license;

(3) An extended hours, supplemental bar, special Sunday, or sampling license; or

(4) A secondary malt beverage license.

Section 2. In addition to the Basic Application for Alcoholic Beverage Licenses required by Section 1 of this administrative regulation, an applicant shall complete and submit to the Department of Alcoholic Beverage Control the special application form required by 804 KAR 4:410.

Section 3. A licensee who is renewing a license pursuant to KRS 243.090 shall complete and submit to the Department of Alcoholic Beverage Control the ABC Renewal Notice and Fees.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Basic Application for Alcoholic Beverage Licenses", December ~~[September]~~ 2013; and

(b) "License Renewal Notice and Fees", December, 2013 ~~[is incorporated by reference]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov/>.

FREDERICK A. HIGDON, Chairman

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 10, 2013

FILED WITH LRC: December 11, 2013 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2014, at 9 a.m., EST, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this Department in writing by January 20, 2014, five working days 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. 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 comments on the proposed administrative

regulation. Written comments shall be accepted through January 31, 2014. 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: Trey Hieneman, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 564-4850, fax (502) 564-7479.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Trey Hieneman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates the basic application for an alcoholic beverage license by reference.

(b) The necessity of this administrative regulation: KRS 241.060(1) authorized the board to promulgate administrative regulations governing procedures relative to the applications for and revocation of licenses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 241.060(1) authorizes the board to promulgate administrative regulations. KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the license application form.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes. This administrative regulation incorporates the basic application for an alcoholic beverage license, as required by KRS 241.060(1).

(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 regulation amends the basic application to clarify the requirements from fire authorities as they relate to seating capacity or certificate of occupancy. It adds language to Section C to require and applicant operating under a management agreement to provide a copy of the agreement to the Department. It also amends Section E by removing signature lines for the state administrator for transitional licenses. Finally, the amendment removes Section AA, requiring the application to be notarized.

(b) The necessity of the amendment to this administrative regulation: The basic application requires applicants for certain licenses to submit documentation related to occupancy or seating capacity. This regulation clarifies which document must be provided by the applicant. It adds language to Section C to require and applicant operating under a management agreement to provide a copy of the agreement to the Department. It also removes confusing language in Section E where an administrator's signature is required. Section AA, requiring the application to be notarized, has been removed because it is not necessary and often slows down the licensing process.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 241.060(1) authorizes the board to promulgate administrative regulations. KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the license application form.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation clarifies which fire safety document the applicant needs to submit when applying for an alcoholic beverage license. It adds language to Section C to require and applicant operating under a management agreement to provide a copy of the agreement to the Department. The amendment also removes confusing language in Section E that requires the administrator's signature when applying for a transitional license.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects anyone applying for an NQ-2 or limited restaurant license.

(4) Provide an analysis of how 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: All applicants for an NQ-2 or limited restaurant license will be required to submit either the Certificate of Occupancy or Load Capacity/Seating Capacity certificate when applying for a license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No anticipated increase in fees or funding necessary to implement this administrative regulation.

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

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

(9) TIERING: Is tiering applied? No tiering is applied. There are no costs associated with administering this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Alcoholic Beverage Control is the only state or local entity affected by this amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 241.060 authorizes the Alcoholic Beverage Control Board to promulgate administrative regulations related to alcoholic beverage licenses.

3. Estimate the effect of this administrative regulation on the expenditures of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation will be in effect. There will be no effect on revenue or 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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

Revenue (+/-):

Expenditures (+/-):

Other Explanation:

**PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Amendment)**

804 KAR 4:410. Special applications and registration forms incorporated by reference.

RELATES TO: KRS 241.060(1)

STATUTORY AUTHORITY: KRS 241.060, 243.380, 243.390

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate reasonable administrative regulations governing procedures relative to the applications for licensing. This administrative regulation incorporates by reference special application forms for specific licenses and required registration forms.

Section 1. Special application forms. An applicant applying for an alcoholic beverage license not included in 804 KAR 4:400 shall complete and submit to the Department of Alcoholic Beverage Control the applicable special application form for the specific license type for which the application is made. The special application forms are listed below:

(1) Special Agent/Solicitor, Out-of-State Producer/Supplier of Distilled Spirits/Wine, Out-of-State Producer/Supplier of Malt Beverage Application;

(2) Special Temporary License Application;

(3) Secondary Malt Beverage License Application Addendum;

or

(4) Supplemental License Application.

Section 2. Registration Forms. An applicable licensee shall complete and submit the following registration forms:

(1) Microbrewer's Retail Gross Receipts Report to Distributor to be submitted to the Department of Revenue;

(2) ABC Form 714 to be submitted to the Department of Alcoholic Beverage Control; or

(3) ABC Form 715 to be submitted to the Department of Alcoholic Beverage Control.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Special Agent/Solicitor, Out-of-State Producer/Supplier of Distilled Spirits/Wine, Out-of-State Producer/Supplier of Malt Beverage Application", December[July], 2013;

(b) "Special Temporary License Application", December[September], 2013;

(c) ["Secondary Malt Beverage License Application Addendum", June 2013;

(d)] "Supplemental License Application", December[September], 2013;

(d)[(e)] "Microbrewer's Retail Gross Receipts Report to Distributor", June 2013;

(e)[(f)] "ABC Form 714", June 2013; and

(f)[(g)] "ABC Form 715", June 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov>.

FREDERICK A. HIGDON, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 10, 2013

FILED WITH LRC: December 11, 2013 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2014, at 9 a.m., EST, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this Department in writing by January 20, 2014, five working days 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. 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 comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2014. 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: Trey Hieneman, Special Assistant, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 564-4850, fax (502) 564-7479

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Trey Hieneman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the forms to be used to apply for various license types.

(b) The necessity of this administrative regulation: KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the license application form.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 241.060(1) authorizes the board to promulgate administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes. This administrative regulation incorporates forms required by KRS 243.380(2) and 243.390.

(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 makes various changes to the material incorporated by reference in the regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is necessary to streamline the application process for the timely processing of applications.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 241.060(1) authorizes the board to promulgate administrative regulations. KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the license application form.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation incorporates forms required by KRS 243.380(2) and 243.390.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all new applicants for the alcoholic beverage licenses listed in Sections (1) and (2) of this regulation.

(4) Provide an analysis of how 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: An applicant will be required to complete the new incorporated forms when applying for an alcoholic beverage license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: Agency funding is used for the implement the administrative regulation.

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

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

(9) TIERING: Is tiering applied? No tiering is applied. There are no costs associated with administering this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Alcoholic Beverage Control is the only state or local entity affected by this amendment.

2. Identify each state or federal statute or federal regulation that requires of authorizes the action taken by the administrative regulation. KRS 241.060 authorizes the Alcoholic Beverage Control Board to promulgate administrative regulations related to alcoholic beverage licenses.

3. Estimate the effect of this administrative regulation on the expenditures of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation will be in effect. There will be no effect on revenue or 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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

Revenue (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET

Department of Housing, Buildings and Construction Division of Heating, Ventilation and Air Conditioning (Amendment)

815 KAR 8:050. Continuing education requirements for heating, ventilation, and air conditioning (HVAC) license holders.

RELATES TO: KRS 198B.658, ~~198B.660~~[198B.660], 198B.664, 198B.672[~~EO 2009-535~~]

STATUTORY AUTHORITY: KRS 198B.654(1), 198B.684[~~EO 2009-535~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654(1), requires the Kentucky Board of Heating, Ventilation, and Air Conditioning to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.650 to 198B.689. KRS 198B.684 authorizes the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors to promulgate an administrative regulation with standards for continuing education

for licensees and certificate holders.[~~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 continuing education requirements for HVAC license holders.

Section 1. Master HVAC Contractor Licensees. (1) Each Master HVAC Contractor shall provide proof of completion of at least eight (8) hours of approved continuing education prior to license renewal.

(2) The required continuing education shall be completed by each licensee within the twelve (12) months preceding renewal except as provided in subsection (4) of this section.

(3) Continuing education courses shall relate to one (1) or more of the following:

(a) Business;

(b) Job safety;

(c) Codes relating to HVAC; and

(d) Board- or board designee-approved subjects directly relating to the HVAC trade.

(4) A licensed master HVAC contractor who accumulates more than the eight (8) hours of continuing education required annually[.] may carry forward the excess credit hours into the two (2) successive educational years for the purpose of satisfying the minimum requirement for those two (2) years.

(a) Carry forward credits shall be limited to a total of twelve (12) hours.

(b) All excess credits above the total of twelve (12) hours shall remain on the licensed master HVAC contractor's records but shall not be carried forward.

(5) A licensed master HVAC contractor teaching or participating as a panel member in an approved continuing education course for heating, ventilation or air conditioning shall be granted one (1) credit hour for each fifty (50) minutes of actual instruction time.

Section 2. Journeyman HVAC Licensees. (1) Each journeyman shall provide proof of completion of at least eight (8) hours of approved continuing education prior to license renewal except as provided in subsection (5) of this section.

(2) The required continuing education shall be completed by each licensee within the twelve (12) months preceding renewal.

(3) Continuing education courses shall relate to one (1) or more of the following:

(a) Business;

(b) Job safety;

(c) Codes relating to HVAC; and

(d) Board- or board designee-approved subjects directly relating to the HVAC trade.

(4) A maximum of four (4) hours of continuing education relating to job safety shall be allowed towards annual journeyman license renewal.

(5) A licensed HVAC journeyman who accumulates more than the eight (8) hours of continuing education required annually[.] may carry forward the excess credit hours into the two (2) successive educational years for the purpose of satisfying the minimum requirement for those two (2) years.

(a) Carry forward credits shall be limited to a total of twelve (12) hours.

(b) All excess credits above the total of twelve (12) hours shall remain on the licensed HVAC journeyman's records but shall not be carried forward.

(6) A licensed HVAC journeyman teaching or participating as a panel member in an approved continuing education course for HVAC shall be granted one (1) credit hour for each fifty (50) minutes of actual instruction time.

Section 3. Combined Master and Journeyman Licensees. An individual who is a holder of both a master and a journeyman license shall meet the continuing education requirements of Section 1 of this administrative regulation.

Section 4. Inactive Master HVAC Contractor Licensees. (1) An inactive HVAC contractor shall not be required to complete continuing education to maintain inactive status.

(2) If an inactive HVAC contractor wishes to activate his or her license to the status of an active HVAC contractor, he or she shall complete four (4) hours of current safety standards continuing education and four (4) hours of current mechanical code continuing education.

(3) Proof of completion of continuing education requirements shall be submitted to the department prior to license reactivation.

Section 5. Continuing Education Courses. (1) All continuing education required for master and journeyman license holders shall be completed in courses approved by the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors or its designee pursuant to 815 KAR 8:060.

(2) Continuing education courses shall be offered only by providers approved by the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors or its designee pursuant to 815 KAR 8:060.

(3) Continuing education courses shall be a minimum of two (2) hours. One (1) hour of class shall be equivalent to fifty (50) minutes of classroom instruction or approved online courses.

(4) Online continuing education shall:

(a) Meet all the requirements of this administrative regulation and of 815 KAR 8:060;

(b) Be provided by a continuing education provider approved in accordance with 815 KAR 8:060;

(c) Include a minimum of six (6) personal security questions, per course, consisting of:

1. One (1) random security question at each log-in; and

2. Remaining security questions at intervals not to exceed twenty (20) minutes;

(d) Allow course participants access to the course for a minimum of thirty (30) days following receipt of payment for the course;

(e) Be capable of storing course content questions as follows:

1. Stored content questions shall equal 150 percent of the content questions required; and

2. Duplicate questions shall not be permitted;

(f) Require a minimum of four (4) content questions, chosen randomly from stored content questions, to be answered during each twenty (20) minutes of continuing education programming;

(g) Make available online the course certificate of completion for twelve (12) months to any licensee who completes the online course, subject to the following:

1. A passing score of seventy-five (75) percent correctly answered content questions shall be required before an applicant is eligible to receive a certificate of completion; and

2. Notification of correct and incorrect answers shall not be permitted prior to completion of the online course; and

(h) Retain a record of all course applications and completions for a minimum of three (3) years.

(5) Continuing education courses offered by a provider not approved in accordance with 815 KAR 8:060 shall be approved by the board or its designee if the following are met:

(a) Approval is requested by the individual license holder thirty (30) days in advance of course date;

(b) A detailed syllabus of the course is provided with the request; and

(c) The course is determined by the board or its designee to be beneficial to licensees[the licensee] in the HVAC trade.

(6)[(5)] The board or its designee shall approve a request if the information has been submitted in accordance with subsection (5)[(4)] of this section of this administrative regulation. The license holder shall provide an affidavit from the instructor verifying the hours of attendance.

AMBROSE WILSON IV, Chairman

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 11, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 10:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 17, 2014 (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. 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 January 31, 2014. 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: Michael T. Davis, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365 ext. 144, fax 502-573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Michael T. Davis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes continuing education requirements for HVAC license holders.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to set uniform standards for continuing education that must be undertaken by all HVAC licensees, including the requirements for approval of course content and form.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 198B.684 states that the board may adopt by administrative regulation standards for continuing education for licensees and certificate holders.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth standards authorized by the statute for all continuing education courses that must be completed by HVAC licensees as a condition of continued licensure.

(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 expands the scope of permissible continuing education to include courses offered online.

(b) The necessity of the amendment to this administrative regulation: To account for evolving technologies in educational course administration and provide licensees additional options for satisfying licensure requirements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.684 authorizes the Board of Heating, Ventilation and Air Conditioning Contractors to establish standards for continuing education courses for all HVAC licensees. These amendments were recommended and approved by the Board to update and amend the current continuing education standards.

(d) How the amendment will assist in the effective administration of the statutes: These amendments are intended to afford licensees the opportunity to take advantage of online resources to satisfy their continuing education requirements rather than restrict all licensees to classroom courses.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All HVAC licensees and potential licensees, as well as all potential online continuing education course providers.

(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 comply with this administrative regulation or amendment: The primary compliance actions created by this amendment will be on the part of prospective online course providers, whose proposed courses must comply with the new online course provisions in order to be approved.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Affected entities will continue to incur the expense of developing and conducting continuing education courses – or of attending them, as applicable – just as they currently do with respect to classroom courses.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits include increased access to continuing education courses and greater flexibility in scheduling continued education, and may include reduced costs of attendance in cases where physical attendance in a classroom course requires travel or time off from work.

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

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs. Any agency costs resulting from these administrative amendments will be met with existing 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: The amendments will not necessitate an increase in fees or require funding to the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees directly or indirectly increased by this administrative regulation amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all online HVAC continuing education courses will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Heating, Ventilation and Air Conditioning.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized by KRS 198B.654(1) and 198B.684.

3. 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 administrative regulation is not anticipated to generate additional revenues for the agency.

(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 administrative regulation is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this program.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to

administer this program.

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 Charitable Gaming (Amendment)

820 KAR 1:001. Definitions for 820 KAR Chapter 1.

RELATES TO: KRS 238.500-238.995

STATUTORY AUTHORITY: KRS 238.515(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(9) authorizes the Department[Office] of Charitable Gaming to promulgate administrative regulations to carry out the provisions of the chapter. This administrative regulation establishes definitions of terms used throughout 820 KAR Chapter 1.

Section 1. Definitions. (1) "Account number" means the unique identification number, if any, assigned by a card-minding device system to a customer that uses a card-minding device to play bingo.

(2) "Bet block" means an area that indicates the dollar amount of the wager.

(3) "Bingo ball" means a ball imprinted with numbers and letters which is used in the selection process of a bingo game.

(4) "Bingo machine" means:

(a) A type of selection device with a receptacle for the unselected bingo balls, a blower for selecting the balls, and a ball tray that contains seventy-five (75) holes in which to place the ball once it is called; or

(b) A generator that randomly selects the balls and displays them on the face of the device.

(5) "Bingo paper pack" means a group of bingo paper sheets that are manufactured, collated, and sold by the manufacturer as a unit.

(6) "Bingo paper package" means a group of bingo paper sheets or packs that are assembled together by an organization for sale at a gaming occasion that becomes a unique item for sale with a specific price.

(7) "Bingo paper sheet" means a single piece of paper on which one (1) or multiple bingo faces are printed.

(8) "Break open bingo" means a bingo game in which the numbers on the face are hidden until after purchase.

(9) "Bundle" means to price a certain amount of bingo paper faces for a certain price with the patron choosing the type of packs that make up the total faces.

(10) "Called" means that a number located on a bingo ball has been:

(a) Selected by the selection device;

(b) Verbally announced by the caller;

(c) Displayed on the flashboard or other[display] device; and

(d) Placed in a ball tray or otherwise continuously displayed until completion of the bingo game[other device].

(11) "Cash" means currency, coinage, or a negotiable instrument.

(12) "Cash over" means the total amount of money actually received from the sale of gaming supplies at a gaming occasion is more than the amount of money due from the sale of that quantity of gaming supplies.

(13) "Cash short" means the total amount of money actually received from the sale of gaming supplies at a gaming occasion is less than the amount of money due from the sale of that quantity of gaming supplies.

(14) "Chief executive officer" means the director of the organization or the person who has legal authority to direct the management of the organization, distributor, manufacturer, or facility.

(15) "Chief financial officer" means the person who shall be:
 (a) Responsible for overseeing the financial activities of the organization, distributor, manufacturer, or facility;
 (b) The custodian of the gaming occasion records; and
 (c) Responsible for ensuring that the records are accurate, complete, and maintained regularly for inspection by the department[office].

(16) "Conditioning" means a restatement of:
 (a) How many numbers or combinations of numbers are being selected by the players;
 (b) The way in which the numbers are being wagered; and
 (c) The corresponding dollar amount wagered.

(17) "Continuation game" means a multipart bingo game in which more than one (1) game with more than one (1) pattern may be played on one (1) bingo paper sheet.

(18) "Covered" means daubed or smeared with indelible ink if using a disposable paper bingo face, or marked electronically if using a card-minding device.

(19) "Cumulative pulltab game" means a pulltab game consisting of multiple pulltab deals that is designed by the manufacturer so that a portion of each deal's predetermined payout is designated to a prize pool board.

(20) "Deal" means each separate game or series of pulltabs which has the same serial number and which may be composed of multiple packages.

(21) "Digital signature" means a method by which data, as in a software application, is expressed in a calculated number which is used to verify the accuracy of the data or a copy of the data.

(22) "Disposable paper bingo face" means a nonreusable bingo face assembled in a single sheet, multiple face sheet, pad, or pack form.

(23) "Draw ticket" means a blank ticket upon which the numbers are marked as they are randomly selected.

(24) "EPROM" means Erasable Programmable ROM.

(25) "Event game" means a type of pulltab game, with or without a seal card, that is designed by the manufacturer so that certain prizes are determined by:

(a) The draw of a bingo ball; or
 (b) A method of randomly selecting numbers or symbols that correspond to the numbers or symbols printed on a ticket.

(26) "Exception log" means a record documenting a prize payout that has not been authorized by the computer.

(27) "Face" means a paper or an electronic representation containing:

(a) Five (5) rows of five (5) squares with numbers or symbols;
 (b) A free center space;
 (c) The letters "B", "I", "N", "G", "O" printed in order over the five (5) columns; and
 (d) A unique perm number identifying each face.

(28) "Fixed base card-minding device" means a computer system, not necessarily manufactured by a licensed manufacturer, which has been loaded with proprietary software by a licensed manufacturer to enable it to function as a card-minding device.

(29) "Flare" means the paper included with a deal of pulltabs that identifies the game and payout structure.

(30) "Flashboard" or "display board" means a board that displays the bingo numbers called.

(31) "Form number" means a manufacturer's alphanumeric number that identifies a pulltab payout structure.

(32) "Gambling" means staking or risking something of value on the outcome of a contest, game, gaming scheme, or gaming device which:

(a) Is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value if there is a certain outcome; and
 (b) Does not include a contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill.

(33) "Gaming occasion" means an event at which charitable gaming takes place, such as a bingo session, a charity fundraising event, a special limited charity fundraising event, a sale of pulltabs, or a sale of raffle tickets.

(34) "Gaming occasion program", "bingo program", "occasion

program", or "program" means a written list of all games to be played and prize amounts to be paid for each game during a gaming occasion, including, if the prizes are based on attendance, the amount of the prize and the attendance required.

(35) "Hand-held card-minding device" means a hand-held computer that is either manufactured or customized by the manufacturer to operate as a card-minding device.

(36) "Hard card" means a reusable card bearing a bingo face or faces.

(37) "Inside ticket" means a blank Keno ticket:

(a) Constructed with eighty (80) blocks numbered one (1) through eighty (80); and
 (b) Containing a bet block.

(38) "Jackpot prize in a progressive pulltab game" or "progressive jackpot prize" means a prize in addition to the instant or seal card prizes which is carried over from deal to deal until it is won.

(39) "Jar ticket" means a type of pulltab game ticket that is folded, glued, or stapled.

(40) "Keno" means a numbers game in which:

(a) A participant chooses from one (1) to ten (10) numbers from a pool of eighty (80) numbers; and
 (b) The winner and the prize is determined by correctly matching the participant's numbers to the twenty (20) numbers generated in the game.

(41) "Keno equipment" means:

(a) An electronic selection device;
 (b) A random number generator;
 (c) A computerized Keno system; or
 (d) An integrated system of computer hardware and software that:

1. Generates a player ticket;
2. Records a game outcome;
3. Verifies a winning ticket;
4. Produces a management report; or
5. Performs other internal audit controls of a Keno operation.

(42) "Keno manager" means the person in charge of the operation of the Keno game.

(43) "Last sale" means a pulltab game designed by the manufacturer in which a prize is awarded to the person who bought the last pulltab in a deal.

(44) "Merchandise prize" means a noncash prize given away at a charitable gaming event either as a game prize or a door prize.

(45) "Model number" means the name or number designated by the manufacturer that indicates the unique structural design of a hand-held card-minding device or card-minding system component.

(46) "Multipackaged pulltab deal" means a pulltab game consisting of a single deal of not more than 10,000 tickets that is packed in subsets and in which each subset contributes to a prize pool with or without a prize board.

(47) "Multirace ticket" means a single ticket that allows a player to make the same wager on consecutive games.

(48) "Outside ticket" means a computer-generated ticket given to the player which reflects game and wagering information.

(49) "Perm number" means the number located on a bingo face that identifies the unique pattern of numbers appearing on that face.

(50) "Pickle jar, bonanza ball, or hot ball" means games played in conjunction with other bingo games in which:

(a) A bingo ball is selected by the selection device prior to the start of certain bingo games or all bingo games; and
 (b) A patron is awarded the amount of money associated with the pickle jar, bonanza ball, or hot ball, if the selected bingo ball is called, and because of that selected ball being called, a patron wins the bingo game being played.

(51) "Player pick bingo" means that the patron picks the numbers which constitute a bingo on his or her face or faces and a machine prints those numbers on the bingo face at the gaming occasion before the game is played.

(52) "Player tracking software" means computer software installed on a card-minding device system or other point of sale system that is used to identify or track certain characteristics of

bingo players, including personal data and purchasing habits.

(53) "Progressive bingo" means a bingo game in which the value of the prize is carried forward to the next bingo occasion if no player wins at that session.

(54) "Progressive pulltab game" or "carryover pulltab game" means a pulltab game consisting of one (1) or more deals designed by the manufacturer so that a portion of the deal's predetermined prize payout is designated to a progressive jackpot and the jackpot value may accumulate from one (1) deal to the next deal until won.

(55) "PROM" means programmable ROM.

(56) "Promotional" means any item available at no charge to all participants at an event.

(57) "Proprietary software" means custom computer software developed by the manufacturer that is a primary component of the card-minding device system and is required for a card-minding device to be used in a game of bingo.

(58) "Pulltab" means a charity game ticket.

(59) "Purchased prize" means any merchandise prize that was purchased and not donated.

(60) "Quick pick" means a number selection made for the player by a computer.

(61) "RAM" or "random access memory" means the electronic memory that a computer uses to store information.

(62) "Random number generator" means a device:

(a) For generating number values that exhibit characteristics of randomness; and

(b) Composed of:

1. Computer hardware;
2. Computer software; or
3. A combination of computer hardware and software.

(63) "ROM" or "read only memory" means the electronic component used for storage of nonvolatile information in Keno equipment that provides instructions needed by the computer to begin its operations each time it is turned on and may be either "PROM" or "EPROM".

(64) "Secondary component" means an additional software or hardware component that:

- (a) Is part of or is connected to a card-minding device system;
- (b) Does not affect the conduct of the game of bingo;
- (c) Is provided by the manufacturer; and
- (d) May include computer screen backgrounds, battery charge-up software routines, monitors, keyboards, pointer devices, mice, printers, printer software drivers, or charging racks.

(65) "Selected" means a bingo number that has been obtained by the selection device and is ready to be called next by the bingo caller.

(66) "Selection device" means a device that:

- (a) May be operated manually or automatically; and
- (b) Is used to randomly select bingo numbers.

(67) "Selection pool" means the bingo numbers in a selection device that have not been selected.

(68) "Serial number" means a number assigned by the manufacturer to track the individual product.

(69) "Series number" means the number of unique faces contained in a series.

(70) "Set" means a case or cases of paper that contain one (1) of each face in a series.

(71) "Site system" means computer hardware, software, and peripheral equipment that:

- (a) Is located at the bingo premises;
- (b) Is operated by the charitable organization;
- (c) Interfaces with, connects with, controls or defines the operational parameters of card-minding devices; and
- (d) May include the following components:
 1. Point of sale station;
 2. A caller verification system;
 3. Required printers;
 4. [Dial-up] Modem;
 5. Proprietary executable software;
 6. Report generation software; and
 7. An accounting system or database.

(72) "Terminal number" means the unique identification

number, if any, assigned by a manufacturer to a specific standard card-minding device.

(73) "Transaction log" means a record of the same information printed on each outside ticket that is:

- (a) Retained in the computer's memory; or
- (b) Printed out by the computer.

(74) "Verification system" means a book of bingo faces compiled by the manufacturer or an electronic device created by the manufacturer that:

- (a) Lists the unique patterns of numbers on each face by perm number; and
- (b) Is used to verify the authenticity of a winning face.

(75) "Version number" means a unique number designated by the manufacturer to identify a specific version of software used on or by the card-minding device system.

(76) "Way ticket" means a single ticket that permits wagering on a combination of groups of numbers in various ways designated by the player.

(77) "Week" means a seven (7) day period beginning on Sunday and ending Saturday.

(78) "Year" is defined by KRS 238.505(25).

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m., Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides definitions for 820 KAR Chapter 1, the chapter that establishes administrative regulations governing charitable gaming in Kentucky.

(b) The necessity of this administrative regulation: This regulation is necessary for the proper interpretation and implementation of 820 KAR Chapter 1.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to "promulgate administrative regulations which are necessary to the carry out the purposes and intent of [KRS Chapter 238]."

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates effective governance of charitable gaming in Kentucky by providing definitions for the terms used in 820 KAR Chapter 1.

(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 change the definition of what constitutes a "bingo machine" to include a device new to the industry which selects the bingo balls randomly and electronically and displays them on the face of the device. Additionally, this amendment will change the definition of "called" in reference to announcing numbers in bingo games to encompass this new technology.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order for the new technology in the gaming industry to conform to the current rules governing the playing of bingo during charitable gaming events in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of KRS Chapter 238. This amendment to the regulation is necessary in order that Kentucky's charitable gaming regulations reflect recent advancements in technology.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow Kentucky administrative regulations regarding the playing of bingo to encompass new and modern technology in the gaming industry.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It is anticipated that this amendment will affect the 629 organizations licensed to conduct charitable gaming in Kentucky as well as the fifteen (15) licensed distributors and twenty-five (25) licensed manufacturers.

(4) Provide an analysis of how the entities identified in Question (3) above 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 regulated entities referred to in Question (3) will not have to take action to comply with the amendment to this administrative regulation. No licensed charitable organization will be compelled to offer the new type of bingo game to its patrons. If it is offered, the organization will only need to purchase the machine from a licensed distributor and report to the department the revenues it receives from bingo, just as it does now for bingo. The distributors and manufacturers would also not have to take action to comply with the regulation since they would not be compelled to offer the devices for distribution or sale. If a manufacturer does elect to produce this machine, they would only need to ensure that it complies with all Kentucky charitable gaming regulations governing the playing of bingo.

(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 the regulation allows for bingo using a random generator to be played as part of charitable gaming in Kentucky. It does not compel any entity to offer it to its patrons or purchase the equipment for this type of bingo. As such, the amendment to this regulation will not cost any of the entities identified in Question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): It is anticipated that there will be financial benefits to all of the entities identified in Question (3). Organizations that offer bingo games to patrons through the use of a device with a random generator will enjoy increased gaming revenues. Distributors will increase their business by distributing the product to organizations and manufacturers will increase their business by producing the devices for sale.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this

amendment to this administrative regulation. There will be no additional funding necessary to enforce the provisions of the amended regulation. The department's existing compliance and enforcement officers now monitor the playing of charitable gaming, including bingo, and they will continue to monitor it if it played by use of a random generator.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by change, if it is an amendment: There will be no increase in fees or funding necessary to implement this 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 does not directly or indirectly establish any new fees.

(9) TIERING: Is tiering applied? No. Only licensed charitable entities are affected by this regulation and all licensed organizations, distributors, and manufacturers are treated the same.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. 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 Department of Charitable Gaming as the agency responsible for implementing this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(9).

3. 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. The amendment to the regulation may result in an increase in the proceeds from bingo that inures to the benefit of licensed charitable organizations, thus increasing the amount of fees that would be paid to the Department of Charitable Gaming. The amendment may also result in an increase in the number and revenues of licensed manufacturers and distributors of charitable gaming supplies in Kentucky.

(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 unknown how much revenue the amendment to this regulation will generate in the first year, but it is anticipated that revenue will increase.

(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? See response to (a) above.

(c) How much will it cost to administer this program for the first year? This regulation should not require any additional administrative costs.

(d) How much will it cost to administer this program in subsequent years? See response to (c) above.

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

Revenues (not applicable);

Expenditures (not applicable);

Other explanation: The amendment to this administrative regulation is intended to allow licensed charitable organizations in Kentucky to avail themselves to new technology involving bingo games and provide those organizations the opportunity to increase their charitable gaming proceeds derived from bingo.

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)**

820 KAR 1:005. Exempt organizations.

RELATES TO: KRS 238.535

STATUTORY AUTHORITY: KRS 238.515(9), 238.535(2), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.535(2) authorizes issuance of an exemption from licensing requirements to organizations meeting all licensing requirements if no special limited charitable games are played and annual gross receipts do not exceed \$25,000. KRS 238.535(2) requires charitable organizations to complete a form notifying the department[office] of its exemption and requires completion of an annual financial report. This administrative regulation establishes the requirements for filing for an exemption and the annual reporting requirements.

Section 1. Form for Exemption. (1) An organization shall submit a complete, accurate, and verifiable Form CG-Exempt, Form for Organization Grossing Under \$25,000 Application for Exemption, at least thirty (30) days prior to the expected date of gaming.

(2) The form shall not be considered complete until all deficiencies are resolved.

(3) If the organization does not respond to a deficiency request within thirty (30) days, the form shall be deemed withdrawn, and the organization shall not game.

(4) If the organization has submitted a complete form, and meets the requirements for licensure prescribed in KRS Chapter 238, the department[office] shall issue a "[]Notification of Exemption.[]"

(5) The organization shall not be required to file an additional exemption request form with the department[office] if the gaming activities of the charitable organization remain exempt.

(6) The organization shall notify the department[office] of any changes in the information contained on the form within thirty (30) days.

(7) An organization possessing a "[]Notice of Exemption[]" shall file an annual report with the department[office] before December 31 of each year. This report shall be filed on Form CG-EFR, Exempt Organization Annual Financial Report For Exempt Organization. The report may be filed electronically.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form CG-Exempt, Organization Grossing Under \$25,000 Application for Exemption, 11/13[Form for Organization Grossing Under \$25,000 (Exemption)], 2/06; and

(b) Form CG-EFR, Annual Financial Report For Exempt Organization, 11/13[Exempt Organization Annual Financial Report], 2/06.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming, Environmental and Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m., Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation identifies the form to be filed and provides instructions for organizations seeking to be exempt from the usual licensing requirements for charitable gaming.

(b) The necessity of this administrative regulation: This regulation is necessary in order for the Department of Charitable Gaming to ensure that only those organizations that properly qualify be granted exempt status.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in order to carry out and implement KRS Chapter 238. KRS 238.535(2) provides the requirements that an organization must comply with in terms of notifying the department of its intention to be exempt from ordinary licensing requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The Department of Charitable Gaming is charged with the responsibility of licensing and regulating charitable gaming in Kentucky. The department must be able to ensure that only those organizations that properly qualify be granted exempt status. Only those organizations that meet certain standards can be granted exempt status. This regulation sets out the requirement that those organizations file the proper form with the department.

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

(a) How the amendment will change this existing administrative regulation: This amendment to the regulation will allow exempt organizations to file their forms electronically. Currently, the regulations do not explicitly provide for that option. This amendment will not require electronic filing, but will permit it.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to bring the existing administrative regulation into conformity with modern technology.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of KRS Chapter 238. This amendment therefore conforms to the content of the authorizing statute.

(d) How the amendment will assist in the effective administration of the statutes: The statutes require that organizations that are seeking exempt status meet certain minimal standards. The department is charged with the statutory responsibility of ensuring those standards are met and in order to carry out that responsibility, the department requires that the organization complete and submit the necessary documentation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected by this administrative regulation: Organizations seeking to be granted exempt status from ordinary licensing requirements. Currently, there are 766 organizations that have been granted exempt status.

(4) Provide an analysis of how the entities identified in Question (3) above 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: Organizations will be permitted to file documents electronically, but will not be required to do so. It will be entirely optional. The only action that will be required of an organization in order to comply and avail itself of this opportunity is a computer and the capability of connecting with the internet.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities involved in Question (3): It is not anticipated that there will be any cost to an organization to file necessary documents electronically.

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): Organizations will be able to file documents electronically which should be easier and more convenient.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by change, if it is an amendment: There will be no increase in fees or funding necessary to implement this 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 does not establish any new fees.

(9) TIERING: Is tiering applied? No. All organizations are being treated the same.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation: The Kentucky Department of Charitable Gaming is the agency responsible for implementing this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(1),(9).

3. 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 amendment to the administrative regulation will have no effect on expenditures and revenues of any state or local 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? Will not generate any new or additional 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? Will not generate any new or additional revenues.

(c) How much will it cost to administer this program for the first year? No additional administrative cost.

(d) How much will it cost to administer this program for subsequent years? No additional administrative cost.

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

Revenues: (n/a);

Expenditures (n/a);

Other explanation: This amendment to the regulation simply authorizes charitable organizations seeking exempt status to file

documents electronically. The organizations are presently required to file the reports in hard copy. This amendment changes only the method of filing.

PUBLIC PROTECTION CABINET Department of Charitable Gaming (Amendment)

820 KAR 1:015. Issuance of annual license for a charitable organization.

RELATES TO: KRS 238.515(3), 238.525, 238.535, 238.540(1)
STATUTORY AUTHORITY: KRS 238.515(1), (2), (3), (9), 238.525(1), 238.535(9), (11), (12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.525(1) requires the department[office] to issue an annual or biennial license to a qualified applicant and to establish fees not to exceed the amounts established in KRS 238.535. KRS 238.535(9) requires applicants for licensure to complete a required application form and KRS 238.535(12) requires the department[office] to establish licensure fees not to exceed \$300. This administrative regulation establishes the fees and procedures for annual licensure of charitable organizations.

Section 1. Application for Licensure. (1) A charitable organization shall submit a complete, accurate, and verifiable application on Form CG-1, Charitable Organization License Application~~[for License for Charitable Organization]~~, at least sixty (60) days prior to the expiration of its license or expected date of gaming.

(2) An application shall not be considered complete until all deficiencies are resolved.

(3) If the applicant does not file a written response to a deficiency request within thirty (30) days or does not provide any requested documents, the application shall be deemed withdrawn.

(4) Once the department[office] has received a complete application, it shall grant or deny the license within sixty (60) days.

(5) The department[office] shall issue a license if the applicant has:

(a) Met the requirements for licensure set forth in KRS 238.535;

(b)[-] Paid all fees and fines;

(c)[-] Filed all reports required;

(d)[-] Filed an acceptable financial plan if required[-] and

(e) Complied with all terms and conditions of any applicable settlement agreement or probationary terms.

(6) The following persons shall be required to submit a fingerprint card if the person resides out-of-state:

(a) The chief executive officer;

(b) The chief financial officer; or[and]

(c) Each chairperson.

Section 2. Information Required on License. A license[Licenses] issued by the Department[Office] of Charitable Gaming shall clearly state the:

(1) Name of the licensee;

(2) Physical address of the licensee;

(3) Effective date of the license;

(4) Expiration date of the license;

(5) Premises or location at which the charitable gaming will be conducted;

(6) Type of license issued (organization);

(7) Address of the Department[Office] of Charitable Gaming; and

(8) The day and time for each gaming occasion[session], and the type of gaming to be conducted under the license.

Section 3. Fees for Licensure. (1) The annual license fees for each organization license issued shall be as follows:

(a) \$100 for;

1. A charitable organization[organizations] upon initial application; or

2. A charitable gaming organization~~organizations~~ with gross receipts not in excess of \$100,000;

(b) \$200 for a charitable gaming organization~~organizations~~ with gross receipts over \$100,000, but not in excess of \$250,000; or

(c) \$300 for a charitable gaming organization~~organizations~~ with gross receipts over \$250,000.

(2) A nonrefundable processing fee of twenty-five (25) dollars shall:

(a) Accompany each application for licensure; and

(b) Be credited against the amount of the annual license fee.

(3) An annual license shall not be issued until the annual license fee is paid in full.

(4) The annual license term shall be for one (1) year from the effective date of the license.

Section 4. Change Request. (1)(a) If the organization wishes to change the date, time, or location of a gaming occasion~~session~~, the charitable organization shall submit a written request signed by an officer and a lease for the gaming location to the department~~office~~ by U.S. postage prepaid mail, electronic mail, hand-delivery, or facsimile transmission at least ten (10) days prior to the date of the requested change.

(b) The department~~office~~ shall process this request and issue or deny a license within ten (10) days.

(c) The organization shall not engage in gaming at the requested date, time, or location change if the new license has not been received.

(d) The organization shall be invoiced a fee of twenty-five (25) dollars for the change.

(2) If the organization wishes to change any other information contained in the license application, the charitable organization shall submit those changes in writing no later than thirty (30) days after the change is made. The change request shall be signed by an officer.

Section 5. Incorporation by Reference. (1) Form CG-1, "Charitable Organization License Application", 11/13["Application for License for Charitable Organization", 04/07], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department~~Office~~ of Charitable Gaming,~~Environmental and~~ Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m. Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the procedure for organizations to apply for a charitable gaming license and specific requirements for the same to be granted. The application form is incorporated by reference.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a standardized procedure and application for organizations to apply for a charitable gaming license.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(1), (2), (3), (9), KRS 238.525(1) and KRS 238.535(9), (11), and (12). KRS 238.515 (1)-(3) set forth the powers of the department to license charitable organizations, establish and enforce reasonable standards for the conduct of charitable gaming, and to provide reasonable licensure fees. KRS 238.515(9) authorizes the department to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.525(1) authorizes the department to issue licenses and to set a license term "in any manner it deems appropriate to facilitate efficient licensing." KRS 238.535 (9), (11), and (12) set forth the information an organization must submit to apply for a license, gives the authority to issue a license for a specified period of time based upon the type of gaming involved, and to set a license fee. This regulation is necessary for the department to uniformly and efficiently collect the information necessary to issue or deny a license to an organization.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates effective administration of the statutes by providing a standardized form and procedure for organizations to apply for licensure and for the department to collect the necessary information to determine if a license can be granted per the statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment incorporates the new CG-1, Charitable Organization License Application. It also corrects language used in the current regulation regarding events where charitable gaming takes place: change from "session" or "gaming session" to the correct term of "gaming occasion", per the definitions in 820 KAR 1:001. It further corrects the improper use of "Office of Charitable Gaming" by changing the language to "Department of Charitable Gaming." Similarly the amendment corrects the improper labeling of the "Public Protection Cabinet" as the "Environmental and Public Protection Cabinet."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to incorporate the new CG-1, Charitable Organization License Application. The amendment was further needed to correct the improper use of "gaming session" to the correct language of "gaming occasion" when referring to an event where charitable gaming occurs. Gaming session generally refers to bingo only. Finally, the amendment was necessary to note the correct cabinet and department names.

(c) How the amendment conforms to the content of the authorizing statutes: This statutory authorities for this regulation are KRS 238.515(1), (2), (3), (9) KRS 238.525(1) and KRS 238.535(9), (11), and (12). KRS 238.515 (1)-(3) set forth the powers of the department to license charitable organizations, establish and enforce reasonable standards for the conduct of charitable gaming, and to provide reasonable licensure fees. KRS 238.515(9) authorizes the department to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.525(1) authorizes the department to issue licenses and to set a license term "in any manner it deems appropriate to facilitate efficient

licensing." KRS 238.535 (9), (11), and (12) set forth the information an organization must submit to apply for a license, gives the authority to issue a license for a specified period of time based upon the type of gaming involved, and to set a license fee. This amendment incorporates the new CG-1, Charitable Organization License Application. The amendment further corrects the improper use of "gaming session" to the correct language of "gaming occasion" when referring to an event where charitable gaming occurs to bring the regulation into conformity with the definitions in 820 KAR 1:001. The amendment was further necessary to note the correct cabinet and department names.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow the department to more effectively gather the necessary information to grant or deny a license to an organization.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will positively impact charitable organizations attempting to obtain a charitable gaming license and current licensed organizations renewing their current licenses. Presently there are 629 licensed organizations. The new CG-1 application form better explains the information necessary for the department to make a proper determination whether to grant a license, and should expedite the application process. It will also positively affect the department by incorporating a new application form that will better provide the department the information it needs to grant or deny a license to an organization.

(4) Provide an analysis of how the entities identified in Question (3) above 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 charitable organizations will be required to use the new CG-1 application when applying for a license or a renewal of a license. The department will need to update the web site with the new CG-1 and otherwise make the form available for applicants.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in Question (3): The main function of this amendment is to incorporate the new CG-1 application for charitable organizations. Organizations are already required to fill out an application form and the department is already required to process the applications and either grant or deny a license. As such, the amendment to this regulation will not cost any of the entities identified in Question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): It is anticipated organizations will benefit by requiring less follow up and clarification from the department which should allow applications to be processed more quickly. The department will be provided with the necessary information to grant or deny a license without as much necessary clarification as is currently required due to the present application.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation. There will be no additional funding necessary to enforce the provisions of the amended regulation. The licensing department is already processing applications.

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

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

This amendment to the regulation does not establish any new fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Only charitable organizations are affected by this regulation and it applies equally to all.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. 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 Department of Charitable Gaming as implementer of this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(1) and (9); KRS 238.525(1); and KRS 238.535(9).

3. 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 should be no effect on the expenditures or revenues of any government 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? The amendment to the regulation should not generate revenue in the first year or in subsequent years. There may be some limited gain if the new application is easier to understand and process which could lead to more organizations applying for licenses and more licenses being issued, but that is likely nominal. Thus, this regulation is essentially revenue neutral.

(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? See response to (a) above.

(c) How much will it cost to administer this program this program for the first year? It is not anticipated that that there will be any cost in administering the program that this regulation relates to.

(d) How much will it cost to administer this program in subsequent years? See response to (c) above.

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

Revenues (+/-): Not applicable; see response to (c) above.

Expenditures (+/-): Not applicable; see response to (c) above.

Other explanation: There should be little to no fiscal impact as the amendment merely updates certain information and does not require any new or additional procedures or actions.

PUBLIC PROTECTION CABINET Department of Charitable Gaming (Amendment)

820 KAR 1:016. Distributor and manufacturer licensees.

RELATES TO: KRS 238.525, 238.530, 238.555(3)(h)

STATUTORY AUTHORITY: KRS 238.515(1), (2), (3), (4), (9), 238.530(1), (2), (4), (5), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(2) requires the Department[Office] of Charitable Gaming to establish reasonable standards for the conduct of charitable gaming. KRS 238.525(1) requires the department[office] to issue an annual or biennial license to a qualified applicant and to establish fees not to exceed the amounts established in KRS 238.530(1) and (2). KRS 238.530(4) requires applicants for licensure to complete a required application form and KRS 238.530(1) and (2) requires the department[office] to establish licensure fees, not to exceed \$1,000. This administrative regulation establishes the fees and procedures for annual licensure of distributors and manufacturers.

Section 1. Application for Licensure. (1) An applicant for a distributor's or manufacturer's license shall submit a complete, accurate, and verifiable application on either Form CG-2, Distributor License Application~~[for a Distributor's License]~~, or Form CG-3, Manufacturer License Application~~[for a Manufacturer's License]~~, at least sixty (60) days prior to the expiration of its license or expected date of operation.

(2) An application shall not be considered complete until all deficiencies are resolved.

(3) If the applicant does not file a written response to a deficiency request within thirty (30) days or does not provide a requested document, the application shall be deemed withdrawn.

(4) Once the department[office] has received a complete application, it shall grant or deny the license within sixty (60) days.

(5) The department[office] shall issue a license if the applicant has:

(a) Met the requirements for licensure set forth in KRS 238.530;

(b) ~~[-]~~ Paid all fees and fines;

(c) ~~[-]~~ Filed all reports required;

(d) ~~[-]~~ Filed a financial plan if required; ~~[-]~~ and

(e) Complied with all terms and conditions of any applicable settlement agreement or probationary terms.

(6) Fingerprints shall be required for the chief executive officer, the chief financial officer, and anyone with a ten (10) percent or greater financial interest in the licensee.

(7) If the licensee wishes to change any information printed on the license, the request shall be submitted prior to the date of the change being made along with a fee of twenty-five (25) dollars. The request shall be signed by an officer. The licensee shall receive the new license before making the requested change.

Section 2. Information Required on License. A license[Licenses] issued by the Department[Office] of Charitable Gaming shall clearly state the:

(1) Name of the licensee;

(2) Physical address of the licensee;

(3) Date of issuance of the license;

(4) Expiration date of the license;

(5) Type of license issued (manufacturer or distributor); and

(6) Address of the Department[Office] of Charitable Gaming.

Section 3. Fees for Licensure. (1) The annual license ~~fee[fees]~~ for each distributor or manufacturer license issued shall be \$1,000.

(2) A nonrefundable processing fee of twenty-five (25) dollars shall:

(a) Accompany each application for licensure; and

(b) Be credited against the amount of the annual license fee.

(3) An annual license shall not be issued until the annual license fee is paid in full.

(4) The annual license shall be effective for one (1) year from the date of issuance.

Section 4. Requirements of a Distributor. (1) Pulltabs or bingo papers that are damaged shall not be sold and shall be destroyed by burning, shredding, or defacing in some manner to prevent their reuse.

(2) A distributor shall maintain a separate bank account for the operation of the distributorship that is not commingled with a personal account or another business account. If the licensee owns multiple distributorships, separate bank accounts shall be maintained for each distributorship[one (-)].

(3) Any payments received from a licensed charitable organization shall be by check drawn on the charitable gaming account or electronic fund transfer from the charitable gaming account.

Section 5. Requirements of a Manufacturer. A licensee who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the department[office] of the delinquency in writing by letter stating the name and license number of the delinquent distributor.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form CG-2, "Distributor License Application" 11/13; ~~["Application for a Distributor's License 2/06"]~~; and

(b) Form CG-3, "Manufacturer License Application" 11/13; ~~["Application for a Manufacturer's License (2/06)"]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming, ~~[Environmental and]~~ Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m. Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the procedure for distributors and manufacturers to apply for a charitable gaming license and specific requirements for the same to be granted. The application forms are incorporated by reference.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a standardized procedure and application for distributors and manufacturers to apply for a charitable gaming license.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This statutory authorities for this regulation are KRS 238.515(1), (2), (3), (4), (9) and KRS 238.530(1), (2), (4), (5), and (6). KRS 238.515(2) requires the department to establish reasonable standards for the conduct of charitable gaming. KRS 238.515(1) requires the department to issue an annual or biennial license to a qualified applicant and to establish fees not to exceed the amounts established in KRS 238.530(1) and (2). KRS 238.530(4) requires applicants for licensure to complete a required application form and KRS 238.530(1) and (2) requires the department to establish licensure fees, not to exceed \$1,000. This administrative regulation establishes the fees and procedures for annual licensure of distributors and manufacturers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates effective administration of the statutes by providing a standardized form and procedure for distributors and manufacturers to apply for licensure and for the department to collect the necessary information to determine if a

license can be granted per the statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment incorporates the new CG-2, Distributor License Application 11/13, and new CG-3, Manufacturer License Application 11/13. It corrects the improper use of "Office of Charitable Gaming" by changing the language to "Department of Charitable Gaming." Similarly the amendment corrects the improper labeling of the "Public Protection Cabinet" as the "Environmental and Public Protection Cabinet."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to incorporate the new CG-2 and CG-3 applications for a distributor's license and manufacturer's license. The amendment was further necessary to note the correct cabinet and department names.

(c) How the amendment conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(1), (2), (3), (4), (9) and KRS 238.530(1), (2), (4), (5), and (6). KRS 238.515(2) requires the department to establish reasonable standards for the conduct of charitable gaming. KRS 238.515(1) requires the department to issue an annual or biennial license to a qualified applicant and to establish fees not to exceed the amounts established in KRS 238.530(1) and (2). KRS 238.530(4) requires applicants for licensure to complete a required application form and KRS 238.530(1) and (2) requires the department to establish licensure fees, not to exceed \$1,000. This administrative regulation establishes the fees and procedures for annual licensure of distributors and manufacturers. This regulation amendment incorporates the new CG-2, Distributor License Application 11/13, and CG-3, Manufacturer License Application 11/13, that will be used by the department to determine whether to grant or deny an application by a distributor or manufacturer. The amendment was further necessary to note the correct cabinet and department names.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow the department to more effectively gather the necessary information to grant or deny a license to a distributor or manufacturer.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will positively impact manufacturers and distributors attempting to obtain or renew a license. Currently there are fifteen (15) licensed distributors and twenty-five (25) licensed manufacturers. The new applications clarify the information necessary for the department to make a proper determination whether to grant a license, and should expedite the application process. The amendment will also positively affect the department by incorporating new application forms that will better provide the department the information it needs to grant or deny a license to a distributor or manufacturer.

(4) Provide an analysis of how the entities identified in Question (3) above 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: Distributors will be required to use the new CG-2 application, and manufacturers will be required to use the new CG-3 application, when applying for a license or a renewal of a license. The department will need to update the web site with the new CG-2 and CG-3 applications and otherwise make the forms available for applicants.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in Question (3): The main function of this amendment is to incorporate the new CG-2 and CG-3 applications. The distributors and manufacturers are already required to fill out an application form and the department is already required to process the applications and either grant or deny a license. As such, the amendment to this regulation will not cost any of the entities identified in Question (3).

(c) As a result of compliance, what benefits will accrue to the

entities identified in Question (3): It is anticipated distributors and manufacturers will benefit by requiring less follow up and clarification from the department which should allow applications to be processed more quickly. The department will be provided with the necessary information to grant or deny a license without as much necessary clarification as is currently required due to the present applications.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation. There will be no additional funding necessary to enforce the provisions of the amended regulation. The licensing department is already processing a CG-2 and CG-3 application.

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

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

(9) TIERING: Is tiering applied? No. Only distributors and manufacturers are affected by this regulation and it applies equally to all.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. 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 Department of Charitable Gaming as implementer of this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(1) and (9); KRS 238.525(1); and KRS 238.535(9).

3. 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 should be no effect on the expenditures or revenues of any government 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? The amendment to the regulation should not generate revenue in the first year or in subsequent years. There may be some limited gain if the applications are easier to understand and process which could lead to more distributors and manufacturers applying for licenses and more licenses being issued, but that is likely nominal. Thus, this regulation is essentially revenue neutral.

(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? See response to (a) above.

(c) How much will it cost to administer this program this program for the first year? It is not anticipated that there will be any cost in administering the program that this regulation relates to.

(d) How much will it cost to administer this program in subsequent years? See response to (c) above.

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

Revenues (+/-): Not applicable; see response to (c) above.

Expenditures (+/-): Not applicable; see response to (c) above.

Other explanation: There should be little to no fiscal impact as the amendment merely updates certain information and does not require any new or additional procedures or actions.

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)**

820 KAR 1:025. Financial reports of a licensed charitable organization.

RELATES TO: KRS 238.550(6), (7), (8), 238.570(1)

STATUTORY AUTHORITY: KRS 238.515(4), (9), 238.550(6), (7), (8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.550(6), (7), and (8) require a licensed charitable organization to submit financial reports. KRS 238.570(1) requires a licensed charitable organization to remit a percentage of the gross receipts derived from charitable gaming to the office. This administrative regulation establishes the method and time of filing the financial reports and remitting payment of the fees due.

Section 1. Reporting Period Defined. (1) For a licensed charitable organization[organizations] that has[have] gross receipts of \$200,000 or less per calendar year and does[do] not have a weekly bingo session, a complete, accurate, legible, and verifiable financial report, in accordance with Section 2 of this administrative regulation, shall be submitted by the[each] licensed charitable organization along with the appropriate fee for every year licensed to game on or before January 31st.

(2) For a[all—other] licensed charitable organization not described in subsection (1) of this section[organizations], a complete, accurate, legible, and verifiable financial report, in accordance with Section 2 of this administrative regulation, shall be submitted by the[each] licensed charitable organization along with the appropriate fee for every quarter licensed to game on or before the following dates:

- (a) April 30, for the quarter January 1 to March 31;
- (b) July 31, for the quarter April 1 to June 30;
- (c) October 31, for the quarter July 1 to September 30; and
- (d) January 31, for the quarter October 1 to December 31.

(3) If the due date is on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(4) The financial report and fee shall be considered filed when due if it has been:

(a) Mailed to the department[office] by first class mail, postage prepaid, to the correct address and postmarked by the due date;or

(b) Received in the department[office] by hand-delivery on or before the due date;or

(c) Received by the department electronically on or before the due date.

Section 2. Financial Reports. (1) A financial report shall:

(a) Be submitted on Form CG-FIN, Financial Report for a Licensed Charitable Organization["Licensed Charitable Organization Financial Report"], including all attachments;

(b) Be completed in ink or typed;

(c) Include the original signature and printed name or, if submitted electronically, the typewritten name of either the chief executive officer or the chief financial officer of the licensed charitable organization; and

(d) Include the original signature and printed name or, if submitted electronically, the typewritten name of the preparer if prepared by an individual other than the chief executive officer or chief financial officer.

(2) If an organization does not have any information to place on an attachment to the financial report, it shall indicate "not applicable" on the attachment.

(3) To complete the Bingo Paper Supplies Inventory page of Form CG-FIN, the product description shall be listed in the format

"# ON # UP", with:

(a) The number "ON" being the number of bingo faces on a bingo paper sheet; and

(b) The number "UP" being the number of bingo paper sheets contained in a bingo paper pack.

(4) If multiple pages are used for inventory, each person completing the inventory shall sign one (1) page of the pages that person completed and initial the remaining pages.

Section 3. Fees Due. The fee imposed by KRS 238.570(1) on gross gaming receipts of a licensed charitable organization shall be remitted by check made payable to "Kentucky State Treasurer" at the time the financial report is due.

Section 4. Reporting Expenses. All expenses incurred by a licensee shall be reported on the financial report for the date on which payment was made, which shall be either the date a check was written or an electronic funds transfer was made, regardless of when the supplies were used or the services were rendered.

Section 5. Incorporation by Reference. (1) Form CG-FIN, "Financial Report for a Licensed Charitable Organization", 11/13["Licensed Charitable Organization Financial Report", 05/07], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming,[Environmental and] Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m., Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires licensed charitable organizations to file quarterly financial reports with the Department of Charitable Gaming in order to account for all revenues derived from charitable gaming.

(b) The necessity of this administrative regulation: This regulation is necessary in order for the Department of Charitable Gaming to ensure that licensed charitable organizations are meeting their charitable purposes and that all revenues derived from gaming are being spent on for legitimate and lawful purposes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 238.515(4) authorizes the

department to establish standards relating to accounting, recordkeeping and reporting in order to ensure that charitable gaming receipts are properly accounted for. KRS 238.515(9) authorizes the department to promulgate administrative regulations in order to carry out and implement KRS Chapter 238. KRS 238.550(6)(7) and (8) require licensed charitable organizations to submit financial reports.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The Department of Charitable Gaming is charged with the responsibility of licensing and regulating charitable gaming in Kentucky. In order to meet that responsibility, the department must have the means to monitor and verify the amount and uses of charitable gaming revenues by licensed organizations. This administrative regulation sets out the requirements that organizations file regular and periodic reports and provides instructions on how those reports are to be filed.

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

(a) How the amendment will change this existing administrative regulation: This amendment to the regulation will allow licensed charitable organizations to file their quarterly financial reports electronically via e-mail transmission. Currently, the regulations do not explicitly provide for that option. This amendment will not require electronic filing, but organizations will be able to do so if they elect to.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to bring the existing administrative regulation into conformity with modern technology and to allow organizations the means to conveniently and expeditiously file financial reports.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of KRS Chapter 238. This amendment therefore conforms to the content of the authorizing statute as the amended regulation will indeed enable licensed charitable organizations to file their financial reports, which are critical to the department's regulatory responsibilities, in a more expeditious and convenient manner.

(d) How the amendment will assist in the effective administration of the statutes: All licensed charitable organizations are statutorily required to file financial reports with the department and the department is charged with the responsibility of reviewing those reports for compliance with Kentucky law. This amendment to the regulation will assist organizations and the department in more efficiently carrying out those responsibilities.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected by this administrative regulation: The 629 organizations that are currently licensed to conduct charitable gaming in Kentucky.

(4) Provide an analysis of how the entities identified in Question (3) above 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: Organizations will be permitted to file their financial reports electronically, but will not be required to do so. It will be entirely optional. The only action that will be required of an organization in order to comply and avail itself of this opportunity is a computer with internet capability.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities involved in Question (3): It is not anticipated that there will be any cost to an organization to file its financial reports electronically.

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): Licensed charitable organizations will be able to file their financial reports electronically which should be easier and more convenient.

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

(a) Initially: There will be no cost to implement this amendment

to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by change, if it is an amendment: There will be no increase in fees or funding necessary to implement this 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 does not establish any new fees.

(9) TIERING: Is tiering applied? No. All licensed charitable organizations are being treated the same.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation: The Kentucky Department of Charitable Gaming is the agency responsible for implementing this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(4)(9); KRS 238.550(6), (7), (8).

3. 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 amendment to the administrative regulation will have no effect on expenditures and revenues of any state or local 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? This amendment to the regulation will not generate any new or additional 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? This amendment to the regulation will not generate any new or additional revenues.

(c) How much will it cost to administer this program for the first year? No additional administrative cost.

(d) How much will it cost to administer this program in subsequent years? No additional administrative cost.

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

Revenues (+/-): n/a

Expenditures (+/-): n/a

Other explanation: This amendment to the regulation simply authorizes licensed charitable organizations to file financial reports electronically. The organizations are presently required to file the reports in hard copy. This amendment changes only the method of filing. It does not require additional cost and the fees licensed organizations are presently paying, based upon their charitable gaming revenues, will not change.

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)**

820 KAR 1:026. Quarterly reports of a licensed charitable gaming facility.

RELATES TO: KRS 238.555(6), 238.560(3)

STATUTORY AUTHORITY: KRS 238.515(2), (4), (9), 238.555(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.555(6) requires a licensed charitable gaming facility to report to the department[office] at least quarterly concerning its operation. This administrative regulation establishes the method and time of filing the required reports.

Section 1. Quarterly Reporting Period Defined. (1)(a) A complete, accurate, legible, and verifiable quarterly report, in accordance with Section 2 of this administrative regulation, shall be submitted by a licensed charitable gaming facility on or before the following dates:

1. April 30, for the quarter January 1 to March 31;
2. July 31, for the quarter April 1 to June 30;
3. October 31, for the quarter July 1 to September 30; and
4. January 31, for the quarter October 1 to December 31.

(b) If the due date is on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(2) A quarterly report shall be considered filed when due if it has been:

(a) Mailed to the department[office] by first class mail, postage prepaid, to the correct address and postmarked by the due date; or

(b) Received in the department[office] by hand-delivery on or before the due date; or

(c) Received by the department electronically on or before the due date.

Section 2. Quarterly Reports. A quarterly report shall:

(1) Be submitted on a Form CG-FAC, Licensed Charitable Gaming Facility Quarterly Report[CG-FACQR];

(2) Be submitted for each quarter that the facility is licensed;

(3) Be completed in ink or typed;

(4) Include the original signature and printed name or, if submitted electronically, the typewritten name of the chief executive officer of the license holder; and

(5) Include the original signature and printed name or, if submitted electronically, the typewritten name of the preparer, if prepared by an individual other than the chief executive officer.

Section 3. Incorporation by Reference. (1) Form CG-FAC, "Licensed Charitable Gaming Facility Quarterly Report" 11/13[CG-FACQR "Quarterly Report of a Licensed Charitable Gaming Facility, 2/06,"] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming, [Environmental and] Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner
ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m., Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires licensed charitable gaming facilities to file quarterly financial reports with the Department of Charitable Gaming in order to keep the department apprised of who is gaming at their facility, how often gaming is occurring and who are the personnel working at the facility during gaming sessions.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order that the department enforce the law that no facility operator or any contractee or employee of a licensed charitable gaming facility be involved in the management or operation of charitable gaming. For that reason, facilities must report their employees and contractees to the department. Further, facility reports are necessary in order that the department ensure that licensed facilities do not exceed the amount of licensed events authorized by law.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in order to carry out and implement KRS Chapter 238. KRS 238.555(6) requires that a charitable gaming facility report at least quarterly to the department and shall provide information concerning its operation as the department may require.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The department is charged with the responsibility of licensing and regulating charitable gaming in Kentucky. In order to meet that responsibility, the department must have the means to monitor what is occurring in charitable gaming facilities in terms of what organizations are gaming, how many events are being held and whether the facilities are abiding by all laws that require that the facility not be managing or running the games.

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

(a) How the amendment will change this existing administrative regulation: This amendment to the regulation will allow licensed charitable facilities to file their quarterly financial reports electronically via e-mail transmission. Currently, the regulations do not explicitly provide for that option. This amendment will not require electronic filing, but facilities will be able to do so if they elect to.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to bring the existing administrative regulation into conformity with modern technology and to allow facilities the means to conveniently and expeditiously file financial reports.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of KRS Chapter 238. This amendment therefore conforms to the content of the authorizing statute as the amended regulation will indeed enable licensed facilities to file their financial reports, which are critical to the department's regulatory responsibilities, in a more expeditious and convenient manner.

(d) How the amendment will assist in the effective

administration of the statutes: All licensed charitable gaming facilities are statutorily required to file financial reports with the department and the department is charged with the responsibility of reviewing those reports for compliance with Kentucky law. This amendment to the regulation assist organizations and the department in more efficiently carrying out those responsibilities.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected by this administrative regulation: The forty-six (46) charitable gaming facilities currently licensed in Kentucky.

(4) Provide an analysis of how the entities identified in Question (3) above 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: Facilities will be permitted to file their financial reports electronically, but will not be required to do so. It will be entirely optional. The only action that will be required of a facility in order to comply and avail itself of this opportunity is a computer and access to the internet.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities involved in Question (3): It is not anticipated that there will be any cost to a facility to file its financial reports electronically.

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): Licensed charitable gaming facilities will be able to file their financial reports electronically which should be easier and more convenient.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by change, if it is an amendment: There will be no increase in fees or funding necessary to implement this 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 does not establish any new fees.

(9) TIERING: Is tiering applied? No. All licensed charitable gaming facilities are being treated the same.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation: The Kentucky Department of Charitable Gaming as the agency responsible for implementing this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(9); KRS 238.550(6), (7).

3. 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 amendment to the administrative regulation will have no effect on expenditures and revenues of any state or local 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? This amendment to the regulation will not generate any new or additional 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? This amendment to the regulation will not generate any new or additional revenues.

(c) How much will it cost to administer this program for the first year? No additional administrative cost.

(d) How much will it cost to administer this program in subsequent years? No additional administrative cost.

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

Revenues (+/-): n/a;

Expenditures (+/-): n/a;

Other explanation: This amendment to the regulation simply authorizes licensed charitable gaming facilities to file financial reports electronically. Facilities are presently required to file the reports in hard copy. This amendment changes only the method of filing.

PUBLIC PROTECTION CABINET Department of Charitable Gaming (Amendment)

820 KAR 1:027. Quarterly reports of a licensed distributor.

RELATES TO: KRS 238.530, 238.560(3)

STATUTORY AUTHORITY: KRS 238.515(4), (9), 238.530(5), 238.560(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.530(5) authorizes the department[office] to promulgate an administrative regulation to require a licensed distributor to report all charitable gaming supplies and equipment furnished. This administrative regulation establishes the method and time of filing the required reports.

Section 1. Quarterly Reports. A quarterly report shall:

(1) Be submitted on Form CG-DIS[CG-DIS/QR];

(2) Be submitted for each quarter that the distributor is licensed;

(3) Be completed in ink or typed;

(4) Include the original signature and printed name or, if submitted electronically, the typewritten name of the chief executive officer of the license holder; and

(5) Include the original signature and printed name or, if submitted electronically, the typewritten name of the preparer, if prepared by an individual other than the chief executive officer.

Section 2. Reporting Period Defined. (1)(a) A complete, accurate, legible, and verifiable quarterly report, in accordance with Section 1 of this administrative regulation, shall be submitted by a licensed distributor on or before the following dates:

1. April 30, for the quarter January 1 to March 31;

2. July 31, for the quarter April 1 to June 30;

3. October 31, for the quarter July 1 to September 30; and

4. January 31, for the quarter October 1 to December 31.

(b) If the due date is on a Saturday, Sunday, or legal holiday, the report shall be due on the first business day thereafter.

(2) The report shall be considered filed when due if it has been:

(a) Mailed to the department[office] by first class mail, postage prepaid, to the correct address and postmarked by the due date;or

(b) Received in the department[office] by hand-delivery on or before the due date;or

(c) Received by the department electronically on or before the due date.

Section 3. Incorporation by Reference. (1) Form CG-DIS, "Licensed Charitable Gaming Distributor Quarterly Report", 11/13[CG-DIS/QR, "Quarterly Report of a Licensed Charitable Gaming Distributor", 2/06], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming,[Environmental and] Public Protection Cabinet,

132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner
ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2103 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m., Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires licensed charitable gaming distributors to file quarterly financial reports with the Department of Charitable Gaming in order for the department to be specifically apprised of all charitable gaming supplies being distributed in the state and which organizations they are going to.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to enable the department to be accurately and currently apprised of precisely what charitable gaming supplies are being distributed to licensed charitable organizations in Kentucky. Organizations are prohibited by law from purchasing charitable gaming supplies from non-licensed entities. All charitable gaming supplies are inventoried and contain identifying and tracking information. Quarterly reports by distributors enable the department to track charitable gaming supplies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in order to carry out and implement KRS Chapter 238. KRS 238.530(5) authorizes the department to require a licensed distributor to report on its activities, with the frequency and content of those reports to be determined by administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The department is charged with the responsibility of licensing and regulating charitable gaming in Kentucky. In order to meet that responsibility, the department must have the means to monitor and track what gaming supplies are being distributed and to whom.

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

(a) How the amendment will change this existing administrative regulation: This amendment to the regulation will allow licensed charitable distributors to file their quarterly financial reports electronically via e-mail transmission. Currently, the regulations do not explicitly provide for that option. This amendment will not require electronic filing, but distributors will be able to do so if they elect to.

(b) The necessity of the amendment to this administrative

regulation: This amendment is necessary in order to bring the existing administrative regulation into conformity with modern technology and to allow distributors the means to conveniently and expeditiously file financial reports.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of KRS Chapter 238. This amendment therefore conforms to the content of the authorizing statute as the amended regulation will indeed enable licensed charitable gaming distributors to file their financial reports, which are critical to the department's regulatory responsibilities, in a more expeditious and convenient manner.

(d) How the amendment will assist in the effective administration of the statutes: All licensed charitable distributors are required to file financial reports with the department and the department is charged with the responsibility of reviewing those reports for compliance with Kentucky law. This amendment to the regulation will assist distributors and the department in more efficiently carrying out those responsibilities.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected by this administrative regulation: The fifteen (15) licensed distributors of charitable gaming supplies that are currently licensed in Kentucky.

(4) Provide an analysis of how the entities identified in Question (3) above 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: Distributors will be permitted to file their financial reports electronically, but will not be required to do so. It will be entirely optional. The only action that will be required of a distributor in order to comply and avail itself of this opportunity is a computer and access to the internet.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities involved in Question (3): It is not anticipated that there will be any cost to a distributor to file its financial reports electronically.

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): Licensed distributors of charitable gaming supplies will be able to file their financial reports electronically which should be easier and more convenient.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by change, if it is an amendment: There will be no increase in fees or funding necessary to implement this 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 does not establish any new fees.

(9) TIERING: Is tiering applied? No. All licensed distributors are being treated the same.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation: The Kentucky Department of Charitable Gaming as the agency responsible for implementing this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(9); KRS 238.550(6), (7).

3. 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 amendment to the administrative regulation will have no effect on expenditures and revenues of any state or local 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? This amendment to the regulation will not generate any new or additional 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? This amendment to the regulation will not generate any new or additional revenues.

(c) How much will it cost to administer this program for the first year? No additional administrative cost.

(d) How much will it cost to administer this program in subsequent years? No additional administrative cost.

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

Revenues (+/-): n/a

Expenditures (+/-): n/a

Other explanation: This amendment to the regulation simply authorizes licensed charitable gaming distributors to file financial reports electronically. Distributors are presently required to file the reports in hard copy. This amendment changes only the method of filing.

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)**

820 KAR 1:029. Facility licensees.

RELATES TO: KRS 238.530(3), 238.555

STATUTORY AUTHORITY: KRS 238.515(2),(4), (9), 238.555(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(2) requires the Department[Office] of Charitable Gaming to establish reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities. KRS 238.555(2) requires applicants for a charitable gaming facility license to complete a required application, and KRS 238.555(1) requires the department[office] to establish a licensure fee not to exceed \$2,500. This administrative regulation establishes the fees and procedures for the licensing of facilities.

Section 1. Application for Licensure. (1) An applicant for a facility license shall submit a complete, accurate, and verifiable application on Form CG-4, [~~Application for a~~] Facility License Application, at least sixty (60) days prior to the expiration of its license or expected date of the operation of the facility.

(2) An application shall not be considered complete until all deficiencies are resolved.

(3) If the applicant does not file a written response to a deficiency request within thirty (30) days or does not provide a requested document, the application shall be deemed withdrawn.

(4) Once the department[office] has received a complete application, it shall grant or deny the license within sixty (60) days.

(5) The department[office] shall issue a license if the applicant has:

(a) Met the requirements for licensure set forth in KRS 238.555;

(b) [~~]~~ Paid all fees and fines;

(c) [~~]~~ Filed all reports required;

(d) [~~]~~ Filed an acceptable financial plan, if required; [~~]~~ and

(e) Complied with all terms and conditions of any applicable settlement agreement or probationary terms.

(6) Fingerprints shall be required for the chief executive officer, the chief financial officer, and anyone with a ten (10) percent or greater financial interest in the licensee.

Section 2. Information Required on License. A license[Licenses] issued by the Department[Office] of Charitable Gaming shall clearly state the:

(1) Name of the licensee;

(2) Physical address of the licensee;

(3) Address of the gaming facility, if different;

(4) Effective date of the license;

(5) Expiration date of the license;

(6) Type of license issued (facility); and

(7) Address of the Department[Office] of Charitable Gaming.

Section 3. Fees for Licensure. (1) The annual license fee for a charitable gaming facility conducting between nine (9) and [~~having no more than~~] eighteen (18) sessions per week shall be \$2,500. The annual license fee for a charitable gaming facility conducting [~~having~~] no more than eight (8) sessions per week shall be \$1,250.

(2) A nonrefundable processing fee of twenty-five (25) dollars shall:

(a) Accompany each application for licensure; and

(b) Be credited against the amount of the annual license fee.

(3) An annual license shall not be issued until the annual license fee is paid in full.

(4) The annual license term shall be for one (1) year from the effective date of the license.

(5) A facility license shall be issued based on location of the gaming facility.

Section 4. Requirements of Licensee. (1) A facility shall be permitted to list the names, license numbers, and gaming sessions, information regarding the organizations, and information regarding the gaming session of the organizations that game at that facility on the facility Web site if there is no charge to the organizations for the listing.

(2) If a licensed charitable gaming organization contracts with a licensed facility to operate the concession stand, the members of that organization that volunteer at the concession stand may volunteer to work for their own gaming session, but shall not volunteer for the game of any other organization that games at that facility.

(3) A facility shall maintain a separate bank account for the facility operation that is not commingled with a personal account or another business account. If the licensee owns multiple facilities, a separate bank account shall be maintained for each facility [~~one~~]. If separate businesses are operated out of the facility including a check cashing service or a concession stand, each business shall have a separate account.

(4) Any payments received from a licensed charitable organization shall be by check drawn on the charitable gaming account or electronic fund transfer from the charitable gaming account.

Section 5. Incorporation by Reference. (1) Form CG-4, "Facility License Application", 11/13, [~~"Application for a Facility License (2/06)"~~] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming, Public [~~Environmental and~~] Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 1 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on

January 23, 2014 at 10:30 a.m. Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the procedure for facility operators to apply for a charitable gaming license and specific requirements for the same to be granted. The application form is incorporated by reference.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a standardized procedure and application for facility operators to apply for a charitable gaming license.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), (9) and 238.555(1) and (2). KRS 238.515 (2), (4), and (9) sets forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.555(1) and (2) state that persons operating a facility where charitable gaming will occur must be licensed under the provisions of this chapter and are required to pay a licensing fee. It further states the information an applicant must submit in the application. This regulation is necessary for the department to uniformly and efficiently collect the information necessary to issue or deny a license to a facility.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates effective administration of the statutes by providing a standardized form and procedure for persons operating charitable gaming facilities to apply for licensure and for the department to collect the necessary information to determine if a license can be granted per the statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment incorporates the CG-4, Facility License Application, 11/13. It corrects the improper use of "Office of Charitable Gaming" by changing the language to "Department of Charitable Gaming." Similarly the amendment corrects the improper labeling of the "Public Protection Cabinet" as the "Environmental and Public Protection Cabinet."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to incorporate the new CG-4, Facility License Application, 11/13. The amendment was further necessary to note the correct cabinet and department names.

(c) How the amendment conforms to the content of the

authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), (9) and 238.555(1) and (2). KRS 238.515 (2), (4), and (9) sets forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.555(1) and (2) state that persons operating a facility where charitable gaming will occur must be licensed under the provisions of this chapter and are required to pay a licensing fee. It further states the information an applicant must submit in the application. This regulation is necessary for the department to uniformly and efficiently collect the information necessary to issue or deny a license to a facility. This regulation amendment incorporates the new CG-4, Facility License Application 11/13, required by the statute. The amendment further corrects the regulation to reflect the current cabinet and department names as stated in the statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow the department to more effectively gather the necessary information to grant or deny a license to a facility.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will positively impact persons attempting to obtain a charitable gaming facility license. Currently there are forty-six (46) licensed charitable gaming facilities. The new CG-4 application form incorporates additional information necessary for the department to make a proper determination whether to grant a license, and should expedite the application process. It will also positively affect the department by incorporating a new application form that will better provide the department the information it needs to grant or deny a license to facility operator.

(4) Provide an analysis of how the entities identified in Question (3) above 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 applicants for a charitable gaming facility license will be required to use the new CG-4 application when applying for a license or a renewal of a license. The department will need to update the web site with the new CG-4 and otherwise make the form available for applicants.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in Question (3): The main function of this amendment is to incorporate the new CG-4 application for charitable gaming facilities. The facility operators are already required to fill out an application form and the department is already required to process the applications and either grant or deny a license. As such, the amendment to this regulation will not cost any of the entities identified in Question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): It is anticipated charitable gaming facility operators will benefit by requiring less follow up and clarification from the department which should allow applications to be processed more quickly. The department will be provided with the necessary information to grant or deny a license without as much necessary clarification as is currently required due to the present application.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this

amendment to the administrative regulation. There will be no additional funding necessary to enforce the provisions of the amended regulation. The licensing department is already processing applications.

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

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

(9) TIERING: Is tiering applied? No. Only charitable gaming facilities are affected by this regulation and it applies equally to all.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. 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 Department of Charitable Gaming as implementer of this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515 and KRS 238.555.

3. 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 should be no effect on the expenditures or revenues of any government 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? The amendment to the regulation should not generate revenue in the first year or in subsequent years. There may be some limited gain if the new application is easier to understand and process which could lead to more facilities applying for licenses and more licenses being issued, but that is likely nominal. Thus, this regulation is essentially revenue neutral.

(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? See response to (a) above.

(c) How much will it cost to administer this program this program for the first year? It is not anticipated that there will be any cost in administering the program that this regulation relates to.

(d) How much will it cost to administer this program in subsequent years? See response to (c) above.

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

Revenues (+/-): Not applicable; see response to (c) above.

Expenditures (+/-): Not applicable; see response to (c) above.

Other explanation: There should be little to no fiscal impact as the amendment merely updates certain information and does not require any new or additional procedures or actions.

PUBLIC PROTECTION CABINET Department of Charitable Gaming (Amendment)

820 KAR 1:044. Bingo equipment.

RELATES TO: KRS 238.515(2), (9), 238.530, 238.545

STATUTORY AUTHORITY: KRS 238.515(2), (4), (9), 238.545(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(9) authorizes the department[office] to promulgate administrative regulations necessary to carry out the purposes and

intent of KRS Chapter 238. KRS 238.515(2) authorizes the department[office] to establish charitable gaming standards. KRS 238.545(1)(b) requires the department[office] to promulgate an administrative regulation concerning use and control of card-minding devices. This administrative regulation establishes standards for the construction and distribution of bingo equipment including standards relative to card-minding devices.

Section 1. Selection and Display Devices. (1) Bingo ball machines and other selection devices, flashboards and other display devices, and other bingo equipment used in the selection and display of game numbers shall be made available for inspection or testing by the department[office] at any reasonable time.

(2) Equipment referenced in subsection (1) of this section shall be designed to produce randomness and be free of any defects when used in a bingo game.

(3) An organization shall not use a selection or display device with a defect that was apparent at the beginning of the session. All bingo balls used in the machine or other device shall:

(a) Be of the same size, shape, weight, and balance;

(b) Have all other characteristics that control their selection the same; and

(c) Be clean and free of defects.

Section 2. Card-minding Devices. (1)(a) A card-minding device and associated site system shall not be sold, leased, or otherwise furnished to any person for use in the conduct of bingo until it has first been tested and approved by an independent testing facility, demonstrated to the department[office] by the manufacturer if requested, and approved by the department[office].

(b) For a hand-held card-minding device, a device which is identical to the device[one - (4)] intended to be sold, leased, or otherwise furnished to any person for use in the conduct of bingo shall be tested and approved.

(c) For a fixed-base card-minding device, a device which contains identical software to the fixed-based card-minding device intended to be sold, leased, or otherwise furnished shall be tested and approved.

(2) The device and software shall be submitted at the manufacturer's expense. The independent testing facility shall ensure that the device and proprietary software conform to the restrictions and conditions set forth in this administrative regulation.

(3) Any modifications to a hand-held card-minding device or the software in a fixed base card-minding device shall be tested and approved by an independent testing facility, demonstrated to the department[office] by the manufacturer if requested, and approved by the department[office].

(4)(a) The department[office], in consultation with the independent testing facility, shall determine if all proprietary software and card-minding devices required to be tested by this administrative regulation, as well as other components of card-minding device systems, conform to the requirements and restrictions contained in this administrative regulation.

(b) Once the department[office] has received the test results from the independent testing facility, the department[office] may request a demonstration of the product within thirty (30) days.

(c) The department[office] shall either approve or disapprove the submission and inform the manufacturer of the results within thirty (30) days of the demonstration.

(5) A manufacturer[Manufacturers] may conduct routine maintenance activities and replace secondary components of a card-minding device system without prior department[office] approval or additional testing as long as this activity does not affect the operation of any proprietary software or the manner in which a bingo game is played.

(6)(a) If the department[office] detects or discovers any problem with a card-minding device system that affects the security or the integrity of the bingo game or the card-minding device system, the department[office] shall direct the manufacturer, distributor, or charitable organization to cease the sale, lease, or use of the card-minding device system until the problem is corrected.

(b) The department[office] shall require the manufacturer to correct the problem or recall the card-minding device system immediately upon notification by the department[office] to the manufacturer.

(c) If the manufacturer, distributor, or charitable organization detects or discovers any defect, malfunction, or problem with the card-minding device system that affects the security or the integrity of the bingo game or card-minding device system, the manufacturer, distributor, or charitable organization shall immediately notify the department[office].

(7)(a) A distributor or charitable organization~~[Distributors and charitable organizations]~~ shall not add or remove any software programs to an approved card-minding device system without the permission of the manufacturer and the department.

(b) If the department[office] detects or discovers a card-minding device system at a playing location that is using components or software that were required to have been approved by the manufacturer and the department[office] but have not been approved, the card-minding device system shall be determined to have an unauthorized modification and the use of the system shall cease immediately.

Section 3. Requirements for the Manufacturer of Card-minding Device Systems. (1) A manufacturer~~[Manufacturers]~~ of a card-minding device system~~[systems]~~ shall manufacture each site system to include a point of sale station and an internal accounting system that is capable of recording the charitable organization's sale of all charitable gaming supplies.

(2)(a) A manufacturer~~[Manufacturers]~~ of a card-minding device system~~[systems]~~ shall ensure that the site system has internet~~[dial-up]~~ capability, so that the department[office] has the ability to remotely verify the operation, compliance, and internal accounting systems of the site system at any time. The department[office] shall be given distributor level access to the machine.

(b) The manufacturer shall provide to the department[office] all current protocols, passwords, and any other required information needed to access the system prior to the operation of the system within Kentucky.

(c) The department[office] shall be notified of any changes in the protocols, passwords, and any other required information needed to access the system within ten (10) days of the change.

(d) Any reports maintained or generated by the card-minding device system shall be capable of being downloaded or otherwise accessed via the internet~~[modem]~~.

(3) A manufacturer~~[Manufacturers]~~ of a card-minding device system~~[systems]~~ shall manufacture each site system to ensure that an internal accounting system is capable of recording and retaining for a period of not less than twelve (12) months:

(a) The serial number of each bingo face sold for card-minding device use;

(b) The price of each face or package sold;

(c) The total amount of the card-minding device sales for each session;

(d) The total number of faces sold for use with card-minding devices for each session;

(e) The serial number of each hand-held card-minding device sold; and

(f) The terminal number or account number associated with each fixed base card-minding device sold.

(4)(a) The information referenced in subsection (3) of this section shall be secure and shall not be accessible for alteration during the session.

(b) The site system shall have report generation software with the capability to print all information required to be maintained on the site system's active or archived databases.~~[Effective October 1, 2006,]~~ The total sales activity report shall be completed in the format of Form CG-CMD.

(5) A manufacturer~~[Manufacturers]~~ of a card-minding device system~~[systems]~~ shall manufacture each site system to ensure that the applicable point of sale station is capable of printing a receipt for each sale or void of a card-minding device. The receipt shall include the following information:

(a) The date and time of the transaction;

(b) The dollar value of the transaction and quantity of associated products;

(c) The sequential and consecutive transaction number;

(d) The session in which the product was sold;

(e) The serial number of each hand-held card-minding device sold; and

(f) The terminal number or account number for each fixed base card-minding device sold.

(6) A card-minding device system~~[systems]~~ may include player tracking software. Player tracking records shall at all times be the property of the charitable organization and neither the manufacturer nor the distributor shall utilize or make available to any person, other than the department[office] or as otherwise authorized by law, the information contained within the player tracking software without the express permission of the charitable organization.

(7) A manufacturer~~[Manufacturers]~~ of a card-minding device system~~[systems]~~ shall manufacture each associated site system to include a caller station verifier that is able to verify winning cards and to print the cards for posting. The caller station verifier shall be capable of posting all balls called for verification purposes and printing an ordered list of the called balls.

(8)(a) Each~~[The]~~ card-minding device system~~[systems]~~ shall employ sufficient security safeguards to allow verification that all proprietary software components are authentic copies of the approved software components and all functioning components of the card-minding device system are operating with identical copies of approved software programs.

(b) The system shall have sufficient security safeguards to ensure that any restrictions or requirements authorized by the department[office] or any approved proprietary software are protected from alteration by unauthorized personnel.

(c) Examples of security measures that may be employed to comply with these provisions include the use of dongles, digital signature comparison hardware and software, secure boot loaders, encryption, and key and callback password systems.

(9) A manufacturer~~[Manufacturers]~~ of a card-minding device system~~[systems]~~ shall ensure that a card-minding device shall not allow any bingo cards or faces other than those verifiably purchased by the patron to be available for play.

(10) A manufacturer shall not display, use, or otherwise furnish a card-minding device which has in any manner been marked, defaced, or tampered with, or which is otherwise intended to deceive the public or affect a person's chances of winning.

(11) If the card-minding device system is capable of using radio frequency, it shall not be dual frequency.

(12) The card-minding device system shall provide password protection for each organization.

(13) The card-minding device system shall erase, deactivate, or render unplayable the electronic faces on each card-minding device prior to the next scheduled bingo occasion:

(a) Upon turning off the device after the last bingo game off~~[off]~~ the occasion has been played or upon placing the device into a charging unit; and

(b) By a secondary timing method established by the manufacturer.

(14) The card-minding device system shall ensure that the patron shall purchase additional electronic bingo faces at the site system and that additional faces shall not be purchased from the floor.

Section 4. Tracking by Manufacturer of Card-minding Device Systems. (1) Each manufacturer selling, leasing, or otherwise furnishing card-minding device systems shall maintain a single log or other record showing the following:

(a) The date of the transaction with the distributor;

(b) The model, version, and serial number of each hand-held card-minding device;

(c) The account number or terminal number of each fixed base card-minding device;

(d) The model and version number of the site system software; and

(e) The name and license number of the distributor to whom

the card-minding device system was sold, leased, or otherwise furnished.

(2) A manufacturer[Manufacturers] selling, leasing, or otherwise providing a card-minding device system[systems] to a distributor[distributors] shall provide the distributor with an invoice or other documentation that contains, at a minimum, the following information:

(a) The date of sale and the time period covered by the invoice;

(b) The quantity sold or leased; and

(c) The total invoice amount.

(3) The manufacturer shall maintain physical or electronic copies of the documentation required by this section for a period of thirty-six (36) months.

Section 5. Distributor Requirements for Card-minding Device Systems. (1) Before initial use by a charitable organization, the distributor shall ascertain that the particular device and associated software version are approved by the department[office] for use in Kentucky.

(2) If the card-minding devices are used at multiple locations, each location shall have its own separate site system.

(3) Before the complete removal of any card-minding device system, the distributor shall supply a copy of the data files to each charitable organization which used the card-minding device system and to the department[office].

(4) A distributor shall not display, use, or otherwise furnish a card-minding device which has in any manner been marked, defaced, tampered with, or which is otherwise intended to deceive the public or affect a person's chances of winning.

(5) Each distributor selling, leasing, or otherwise furnishing card-minding device systems shall maintain a single log or other record showing the following information:

(a) The playing location name, physical address, telephone number, and facility license number, if applicable, where the card-minding device system is located;

(b) The model number and quantity of card-minding devices at each playing location;

(c) The date the card-minding device system was installed or removed;

(d) The model, version, and serial numbers or terminal numbers of the card-minding devices and site system equipment;

(e) The name and license number of the charitable organization or distributor to whom the card-minding device system was sold, leased, or otherwise furnished;

(f) The name and license number of the manufacturer or distributor from whom the card-minding device system was purchased, leased, or otherwise obtained;

(g) Each contract, lease, or purchase agreement[Contracts, leases or purchase agreements] between a distributor[distributors] of a card-minding device[devices] and the charitable organization[organizations] or other distributor to which the devices are furnished; and

(h) The total dollar amount of card-minding device sales or lease transactions regarding each charitable organization to which card-minding devices were furnished during each calendar quarter.

(6) A distributor[Distributors] selling, leasing, or otherwise providing a card-minding device system[systems] to a charitable organization[organizations] or distributor[distributors] shall provide the charitable organization or distributor with an invoice or other documentation that contains, at a minimum, the following information:

(a) The date of sale and the time period covered by the invoice;

(b) The quantity sold or leased; and

(c) The total invoice amount.

(7) The distributor shall maintain physical or electronic copies of the documentation required by this section for a period of thirty-six (36) months.

Section 6. Requirements for Charitable Organizations Using Card-minding Device Systems. (1) Before initial use of a card-minding device system by a charitable organization, the

organization shall ascertain that the particular device and associated software version have been approved by the department[office] for use in Kentucky.

(2) A licensed charitable organization shall not display, use, or otherwise furnish a card-minding device which has in any manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect a player's chances of winning.

(3) If a player's card-minding device malfunctions during a bingo game, it may be repaired or the faces transferred to another card-minding device if it will not interrupt the game.

(4) Each card-minding device shall be limited to offering for play a maximum of seventy-two (72) card faces during any one (1) game of a session.

(5) The charitable organization shall ensure that the card-minding device system does not allow a card-minding device to be used to obtain a bingo prize for any bingo game other than for a game within the bingo session for which the card-minding device was sold.

(6) The department[office] may examine and inspect any card-minding device and site system. The department[office] shall be granted reasonable access to the card-minding devices and unlimited inspection of all parts of the site system.

(7) The organization shall provide the player with a receipt printed on a receipt printer for each sale detailing the transaction. The receipt shall contain, at a minimum, the following information:

(a) A unique nonresettable transaction number that is printed in continuous, consecutive order;

(b) The serial number of the card-minding device issued;

(c) The date and time the receipt was issued;

(d) The name of the charitable organization and license number; and

(e) A description, quantity, purchase price, and total dollar amount of each item purchased.

(8) The organization shall void the original transaction and issue a new receipt if a player requests a partial or full refund. Additional purchases shall not require voiding of the original transaction.

(9) A voided transaction[transactions] shall be treated in the[following] manner established by this section[:].

(a) A voided transaction[transactions] shall be processed immediately[:].

(b) If a voided transaction involves a card-minding device, the card-minding device shall be connected to the site system to ensure all electronic bingo cards are erased or deactivated[:].

(c) The player shall possess the receipt issued at the time of the purchase of the card minding device before the purchase is voided[:].

(d) The word "void" shall be clearly printed on the receipt[:].

(e) The player shall write his or her name, address, telephone number, signature, and amount of refund on the back of the receipt before a partial or full refund may be issued[:and]

(f) All voided receipts shall be attached to the Total Sales Activity Report printed at the end of each bingo occasion and maintained with the gaming records.

(10) If the organization loads the card-minding devices prior to selling them, all unsold card-minding devices shall be voided by the start of the second game.

(11) If the receipt printer malfunctions or printed receipts are not legible, manual receipts shall be issued that contain the same information required by subsection (7) of this section.

(12) If the department[office] or any player requests verification of a winning card face played on a card-minding device, the session chairperson shall print the winning card face and post it in a conspicuous location where it may be viewed in detail. Winning card faces requested for posting shall remain posted for at least thirty (30) minutes after the completion of the last bingo game at that particular session.

(13) The organization shall reasonably ensure that the internet connection[dial-up phone lines remain attached] to the site system is[at all times and are] operational at all times.

(14) If the organization sells card-minding devices for a discounted price, or gives them away as a promotion, the site system shall be programmed to account for the discounted item

and price separately from those sold at the regular price. A generic discount key shall not be allowed.

(15) The organization shall print a Total Sales Activity Report from the point of sale at the end of each bingo session and maintain it with the occasion records.

(16)[Effective July 1, 2006,] A manufacturer's representative or distributor's representative may be present during a bingo session only to consult, demonstrate, and train on the operation of the card-minding device system.

Section 7. Incorporation by Reference. (1) Form CG-CMD, "Total Sales Activity Report", 2/06, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming,[Environmental and] Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014 at 10:30 a.m. Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards for the construction and distribution of bingo equipment including standards relative to card minding devices.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a standardized procedure for the construction and distribution of bingo equipment, including specific standards for card minding devices as required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), and (9), and 238.545(1)(b). KRS 238.515 (2), (4), and (9) set forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.545(1)(b) gives permission to charitable organizations to provide card-minding devices for use by players in bingo games. It requires the devices be capable of use in conjunction with bingo cards or paper at all times. It further grants broad authority to the department to define and regulate the

use of card-minding devices and requires the department to promulgate administrative regulations regarding the use and control of those devices. This regulation is necessary for the department to comply with the requirements of KRS 238.545(1)(b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The statutes specifically require administrative regulations to define and regulate the use and control of card-minding devices. This regulation facilitates effective administration of the statutes by providing definition, control, and use standards for card-minding devices; including insuring the devices can be played with bingo paper or cards at all times and providing standards to insure the reliability of these devices.

(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 outdated language in the regulation that required card-minding devices to be equipped with "dial-up" capability and access by modem. The regulation also required "dial-up phone lines remain attached to the site system at all times." The language was changed to require the devices be equipped with "internet" capability and that the internet connection remains operational at all times. The regulation corrects the improper use of "Office of Charitable Gaming" by changing the language to "Department of Charitable Gaming." Similarly the amendment corrects the improper labeling of the "Public Protection Cabinet" as the "Environmental and Public Protection Cabinet."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to correct outdated language regarding dial-up internet. The updated language uses the more general term of "internet" and will hopefully encompass any continued change in technology. The amendment was further necessary to note the correct cabinet and department names.

(c) How the amendment conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), and (9), and 238.545(1)(b). KRS 238.515 (2), (4), and (9) set forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.545(1)(b) gives permission to charitable organizations to provide card-minding devices for use by players in bingo games. It requires the devices be capable of use in conjunction with bingo cards or paper at all times. It further grants broad authority to the department to define and regulate the use of card-minding devices and requires the department to promulgate administrative regulations regarding the use and control of those devices. This regulation is necessary for the department to comply with the requirements of KRS 238.545(1)(b). This regulation amendment conforms to the statutory authority by updating the language in the regulation to incorporate current technology not anticipated at the time the regulation was written. The new language does not change the spirit of the requirement that the device must have internet capability. The amendment further corrects the regulation to reflect the current cabinet and department names as stated in the statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow the department to stay current with new and changing technology by using a more general term, "internet", as opposed to the specific, outdated, language currently in the regulation that requires "dial-up" internet access.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Licensed charitable organizations, facilities, and manufacturers will be impacted by the regulation change. There are currently 629 licensed organizations, forty-six (46) licensed facilities, and twenty-five (25) licensed manufacturers. Manufacturers will no longer have to comply with outdated requirements to incorporate dial-up internet access into

card-minding devices. This should positively affect manufacturers. Organizations and facilities will be affected as they may need to update internet access to a different form other than dial-up. While dial-up access is generally an outdated form of internet access, some rural counties may still use dial-up internet. This regulation does not require manufacturers to stop producing card-minding devices that have dial-up capabilities, nor does it make the devices that do have dial-up capabilities non-compliant. The change simply allows for the devices to be manufactured and used in connection with current forms of internet connectivity. Therefore, rural areas that use dial-up internet would still be in compliance by using devices that connect to the internet by dial-up access. They will just need to find manufacturers whose products are dial-up compatible. This change will also positively affect other organizations and facilities that are currently required to provide this outdated form of internet access. They will now be in compliance with the law by providing other, more updated means of internet access.

(4) Provide an analysis of how the entities identified in Question (3) above 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: See response to (3) above.

(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 mandatory costs associated with compliance with this amendment. Some organizations or facilities may expend money to update their internet access and some manufacturers may spend money updating their card-minding devices to incorporate the use of current internet technology, but these expenses are not mandatory.

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): It is anticipated charitable gaming organizations and facilities will benefit by no longer being required to provide dial-up internet access which is mostly outdated at this point. Manufacturers will similarly benefit by no longer being required to produce devices that only have dial-up internet capabilities. All entities will now be able to provide the same services using current technology. This may allow organizations who do not currently provide card-minding devices because of the dial-up requirement to begin offering this product. This would in turn positively benefit manufacturers.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation. There will be no additional funding necessary to enforce the provisions of the amended regulation. The compliance department already monitors the use of card-minding devices.

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

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

(9) TIERING: Is tiering applied? No. This regulation applies equally to all licensed charitable gaming entities.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. 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 Department of Charitable Gaming as implementer of this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515, KRS 238.530, and KRS 238.545.

3. 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 should be no effect on the expenditures or revenues of any government 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? The amendment to the regulation should not generate revenue in the first year or in 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? See response to (a) above.

(c) How much will it cost to administer this program this program for the first year? It is not anticipated that there will be any cost in administering the program that this regulation relates to.

(d) How much will it cost to administer this program in subsequent years? See response to (c) above.

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

Revenues (+/-): Not applicable; see response to (c) above.

Expenditures (+/-): Not applicable; see response to (c) above.

Other explanation: There should be little to no fiscal impact as the amendment merely updates certain information and does not require any new or additional procedures or actions.

PUBLIC PROTECTION CABINET Department of Charitable Gaming (Amendment)

820 KAR 1:046. Bingo rules of play.

RELATES TO: KRS 238.545

STATUTORY AUTHORITY: KRS 238.515(2), (9), 238.545(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515(9) authorizes the department[office] to promulgate administrative regulations necessary to carry out the purposes and intent of KRS Chapter 238. KRS 238.515(2) authorizes the department[office] to establish charitable gaming standards. KRS 238.545(1)(b) requires the department[office] to promulgate an administrative regulation concerning use and control of card-minding devices. This administrative regulation establishes standards for the conduct of play of bingo.

Section 1. General Provisions. (1) All individuals involved in the conduct of bingo shall be trained in the proper conduct of the game and the control of funds.

(2) The chairperson shall be in full charge of the licensed gaming occasion, supervise and direct all volunteers, and be responsible for assuring the proper receipt and recording of gaming funds.

(3) Except for Braille cards intended for use by blind players, bingo paper or card minding devices shall not be reserved by the charitable organization for any player. Legally-blind players may use their own cards if the licensee does not make Braille cards available. In accordance with KRS 238.505(15), Braille cards shall not be considered gaming supplies and equipment and may be

purchased from ordinary sources of supply.

(4) More than one (1) charitable organization shall not conduct gaming at the same time and location as another charitable organization except for a licensed charity fundraising event[events].

(5) If a bingo session is cancelled once it is commenced, an organization may refund a portion of the purchase price of the bingo paper or card-minding device. An organization shall not continue the session or award the prizes at a later date.

(6) Each organization's gaming supplies shall be maintained in a location separate from another organization's gaming supplies. This location shall be locked and access shall be controlled. An extra set of bingo balls shall not be stored at the caller's stand but shall be stored with the other charitable gaming supplies.

(7) A volunteer at a charitable gaming occasion at which bingo cards or faces are sold shall not purchase or play bingo cards or faces at that occasion unless the volunteer's duties are complete for the occasion. Once a volunteer starts playing bingo, that person shall not volunteer for the remainder of that gaming occasion.

(8) If the charitable organization has house rules concerning its bingo session, the house rules shall:

(a) 1. Be posted in at least two (2) conspicuous locations at the gaming occasion and announced prior to the commencement of the gaming occasion; or

2. Be listed on the program;

(b) Not conflict with KRS Chapter 238 or 820 KAR Chapter 1;

(c) Be followed; and

(d) Include the organization's name and license number.

(9) Every ball in the bingo machine or other selection device shall be displayed[placed—out] for verification at the commencement and at the completion of each bingo session.

(10) Individual bingo paper sheets in a pack shall not be sold as individual bingo paper sheets.

(11) The organization shall buy a complete set of paper and use that paper before starting another set.

(12) A charitable organization shall not separate faces on one (1) paper sheet or any paper sheets in a pack prior to play.

(13) The price for each type of bingo sheet, pack, or package shall be listed on the bingo program.

(14) Bingo paper sheets, bingo paper packs, and bingo paper packages shall be used during the bingo session for which they were purchased. An organization shall not allow a player to carry over purchased, but unused, bingo paper sheets, bingo paper sheet packs, or bingo paper packages to a subsequent bingo session.

(15) An organization shall not allow a player to play bingo paper that was not purchased at that session, except for Braille cards as provided in subsection (3) of this section.

(16) The organization shall not duplicate or otherwise make copies of bingo paper.

(17) If an organization sells the same paper packs or paper sheets for different prices, the packs or sheets shall be distinguishable by serial number.

(18) An organization shall not sell bingo paper in a bundle.

(19) If an organization sells bingo paper as a package, the package shall become a unique item with a certain price and the items in the package shall not be sold individually unless a separate serial number is used.

(20) If an organization games in back to back sessions, it may pre-sell paper for the second session if[as long as] a different set of paper is used with a different color or border and a different serial number. The money from the preselling of paper shall be deposited with the second session receipts and the sales recorded on the second session gaming occasion records. If the price for the presold paper is discounted, the organization shall list this discount on the gaming occasion program and use a third set of paper with a different serial number.

(21) An organization shall perform an inventory and obtain permission from[of] the department[office] before destroying a bulk amount of gaming supplies. The gaming supplies shall be destroyed by burning in compliance with state and federal law, shredding, destroying, or defacing in some manner to prevent reuse of any pulltab, flare, prize board, seal card, bingo paper, or

any portion thereof.

(22)(a) When an organization ceases to game, the organization shall:

1. Perform a final inventory; and

2.a. Return all unused product to a distributor;

b. Donate the product to another organization with the permission of the department[office]; or

c. Destroy the product with the permission of the department[office].

(b) Abandoned gaming supplies shall be seized by the department[office] and destroyed.

Section 2. Playing. (1) All players shall be physically present at the location where the bingo game is held in order to play the game or claim a prize offered.

(2) The bingo session shall start when the balls are verified. The balls shall be verified before the pickle jar, bonanza ball, or hot ball is selected and called.

(3) Before selecting or calling the first number in a game, the bingo caller shall call out the amount of the game prize to be awarded.

(4) Before selecting and calling the first number in a game, the bingo caller shall announce the pattern or arrangement of squares to be covered to win the game. This information shall also be listed in the bingo program.

(5) After selecting each number, the bingo caller shall:

(a) Clearly announce the number;

(b) Display the ball or other device used in a manner allowing the players to see the number, except displaying the ball shall not be required during a speed game;

(c) Cause the ball or other device to be placed in a ball tray or other device so as to prevent it from being placed back into the selection pool; and

(d) Enter each letter and number called on a flashboard or similar device for player viewing.

(6) A winner shall be determined when the preannounced pattern of squares is covered by a player on a card.

(7) It shall be the player's responsibility to notify a volunteer including the chairperson or caller that the player has a winning bingo combination as announced.

Section 3. Pickle Jar, Bonanza Ball, or Hot Ball. If the organization gives an additional prize if a patron wins on a certain number, the rules of play, including how it is awarded at the maximum payout, and cost to enter shall be listed on the bingo program. These numbers may be selected and posted before the first game is called.

Section 4. Break Open Bingo. (1) A break-open bingo game shall begin when, in the presence of players attending the bingo occasion, the organization calls and posts, either manually or by use of a flashboard, a predetermined quantity of randomly selected bingo numbers from a selection device or a separate bingo number container. If a flashboard is used, these numbers shall be posted on a separate board than the regular bingo board unless the regular board is capable of keeping track of these numbers separately. The balls shall then be placed back into the selection pool until the game is played on the program.

(2) Sealed bingo paper sheets for a break open game may be sold throughout the bingo occasion. Additional bingo paper sheets for a break open game shall not be sold after the organization resumes calling letters and numbers when the game is played on the program.

(3) An organization may allow players to trade break open bingo faces for new faces.

(4) If the charitable organization allows players to trade break open bingo faces for new faces, two (2) sets of the game faces shall be maintained. One (1) set shall be known as the "original set" and shall be of a different serial number than the second set, known as the "trade in" set.

(5) An organization shall list on the bingo program the price of the original set and the trade-in set.

Section 5. Player Pick. If the charitable organization offers a Player Pick game, the requirements in this section shall apply. (1) A player shall select numbers between one (1) and seventy-five (75). A player shall not select more than five (5) numbers for each column. The player may allow the machine to select the numbers.

(2) Duplicate numbers shall not be played on a purchased face. If duplicate numbers appear on a face, the card shall be void.

(3) Once selected, the machine shall print a face with the selected numbers.

(4) The faces shall conform to the construction and randomization standards set forth in 820 KAR 1:042.

(5) The price of each face and the amount of numbers that will be chosen shall be listed on the bingo program.

(6) The numbers shall be daubed as the balls are called when the game is played as listed on the bingo program.

(7) A player shall win if he or she is the first person to cover the numbers.

Section 6. Continuation Games. (1) Multiple patterns may be played on one (1) bingo face. Each portion of the continuation game shall be considered a single bingo game, even though the bingo balls shall not be returned to the selection pool after a winner has been determined and verified.

(2) Each winning pattern shall be verified independently.

Section 7. Progressive Bingo Games. (1)(a) Progressive games or prizes connected to a bingo game or conditioned on winning a bingo game shall be permitted only if prizes awarded on progressive games are included in the prize limit established in KRS 238.545(1), regardless of the method by which a player is eligible to participate.

(b) The licensed charitable organization shall be responsible for ensuring that the value of any progressive bingo game prize, when added to the values of the other prizes of the same date or occasion, does not exceed the \$5,000 limit.

(c) All receipts on progressive bingo games shall be reported to the ~~department~~[office] as gross receipts for the date collected pursuant to KRS 238.550.

(2) Once a progressive bingo game has been started, the game shall be played in the same manner at every occasion until the prize is awarded. The jackpot prize shall be offered at each successive bingo occasion for that charitable organization until the jackpot prize has been won.

Section 8. Winner Verification and Registration. (1) ~~A manufacturer~~[Manufacturers] of bingo paper shall make available for purchase a verification book or other verification system for all paper manufactured.

(2) The charitable organization conducting a bingo game shall use a reliable verification system that corresponds with the set of paper in play.

(3) When a player declares a winning bingo, ~~the following~~ steps established in this subsection shall be followed for winner verification.[-]

(a) The game shall be stopped before the next number is called. If the next number has been selected, it shall be secured to ensure that if the declared "bingo" is invalid, the game will continue.

(b)1. If an electronic verifier or verifier book is used, a volunteer for the charitable organization shall:

a. Show the winning face to a neutral player, who shall be a player other than the winner; and

b. Call back the perm number while in front of the neutral player.

2. If any other verification system is used, a volunteer for the charitable organization shall:

a. Show the winning face to a neutral player, who shall be a player other than the winner; and

b. Call back the winning combination while in front of the neutral player.

(4) The caller shall ask at least twice if there are any other winners before announcing the close of the game. If playing a continuation game, the caller shall ask at least twice if there are

any other winners before the close of that part of the game.

(5) If more than one (1) winner is declared in a bingo game, prizes shall be awarded as established in this subsection.~~[the following method of awarding prizes shall apply:]~~

(a) Cash prizes shall be divided equally among the verified winners.[-and]

(b) If the prize is something other than cash and cannot be divided among winners, prizes of equal proportionate value shall be awarded.

Section 9. Prizes. (1) If a merchandise prize or discount is available to everyone, it shall be considered a promotional item and counted as an expense.

(2) If a merchandise prize or discount is not available to everyone, it shall be included in the prize limit established in KRS 238.545(1) at its fair market value. It shall be included in expenses for purchased prizes at actual cost. If the merchandise prize is a gaming supply, it shall be included in supplies expense at actual cost.

(3) The fair market value of bingo paper, a card-minding device, or pulltabs awarded as a merchandise prize shall be the price that a patron would have paid for the same bingo paper, card-minding device, or pulltab at that gaming occasion.

(4)(a) If bingo paper is awarded as a door prize or a bingo game prize, the patron shall be given a voucher.

(b) The voucher shall be completed with:

1. The name, address, and phone number of the patron redeeming the voucher;

2. The date on which it was awarded;

3. The date on which it was redeemed;

4. The amount of paper given in exchange for the voucher; and

5. The serial number of the bingo paper.

(c) Once the voucher is completed, it shall be redeemed for the bingo paper.

(d) The organization shall retain the voucher with its session records.

(5) If bingo paper is awarded as a promotional item, the description of the paper shall be listed on the program with "free" or "promotional" listed as the price. If the organization also sells that type of paper, a separate set of paper with a separate serial number shall be used.

(6)(a) If a card-minding device is awarded as a door prize or a bingo game prize, the patron shall be given a voucher.

(b) The voucher shall be completed with:

1. The name, address, and phone number of the patron redeeming the voucher;

2. The date on which it was awarded;

3. The date on which it was redeemed; and

4. The number of card-minding devices and the number of faces loaded on each device given in exchange for the voucher.

(c) Once the voucher is completed, it shall be redeemed for the card-minding device.

(d) The organization shall retain the voucher with its session records.

(e) There shall be a specific button on the point of sale programmed for each type of voucher and package involving a card-minding device.

(7) If a card-minding device is awarded as a promotional item, the description of the promotional package shall be listed on the program with "free" or "promotional" listed as the price. The point of sale shall have a specifically described discount button for this promotion.

(8) If an organization offers coupons for bingo paper or a card-minding device, a voucher shall be completed when the coupon is redeemed, and the coupon and the voucher shall be retained with the gaming occasion records.

(9) If the organization sells gift certificates for bingo paper or a card-minding device, the receipts for the sale shall be counted as gaming receipts on the day they are received. When the gift certificate is redeemed, a voucher shall be completed and the gift certificate and the voucher shall be retained with the gaming occasion records.

(10) If a pulltab is awarded as a bingo prize, the person in

charge of bingo payouts shall purchase the pulltabs from the pulltab manager by transfer of cash from bingo payout to pulltab sales and it shall be recorded as a sale on the session records.

(11) Each bingo winner shall be determined and every prize shall be awarded and delivered on the same day on which the bingo was conducted.

(12) A voucher[Vouchers] shall be redeemed on the same day as awarded.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m., Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes rules and procedures for the playing of bingo during charitable gaming events.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the department to uniformly and consistently regulate bingo games played during charitable gaming events.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 238.515(2) authorizes the department to establish reasonable standards for the conduct of charitable gaming. KRS 238.515(9) authorizes the department to promulgate administrative regulations necessary to carry out KRS Chapter 13A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The department is charged with the responsibility of licensing and regulating charitable gaming in Kentucky. In order to meet that responsibility, the department must set reasonable standards and rules for the playing of bingo.

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

(a) How the amendment will change this existing administrative regulation: The current regulation contains a requirement that every ball used during a bingo game be "placed out" for verification at the commencement and completion of each bingo session. New technology is evolving which will allow bingo to be played by use of a random generator where, instead of the balls physically being used during the game, the balls are depicted on the screen of the machine. This amendment to the regulation is designed to continue to ensure that verification of bingo balls occurs, but allows for that verification to be accomplished by depiction of those balls on the screen.

(b) The necessity of the amendment to this administrative

regulation: This amendment is necessary in order to bring the regulation concerning verification of the bingo balls into conformity with the new technology to be employed in the playing of bingo for charity.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of KRS Chapter 238. This amendment therefore conforms to the content of the authorizing statute.

(d) How the amendment will assist in the effective administration of the statutes: The department is charged with the responsibility of establishing reasonable rules for the playing of games during charitable gaming events. The rule regarding verification of bingo balls is meant to ensure that patrons participating in charitable gaming events know that games are being played fairly. Since new technology is being introduced regarding the playing of bingo, it is necessary for that same assurance to be conveyed to the players.

(3) List the type and number of individuals, businesses, organizations, or state and local governments that will be affected by this administrative regulation:

It is anticipated that this amendment to the regulation will affect the 629 organizations currently licensed to conduct charitable gaming in Kentucky as well as the fifteen (15) licensed distributors of charitable gaming supplies and twenty-five (25) licensed manufacturers of charitable gaming supplies.

(4) Provide an analysis of how the entities identified in Question (3) above 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 licensed organization engaged in charitable gaming will be required to offer this new type of bingo game to its patrons. If an organization chooses to avail itself of this new technology, the only action that will be required of the organization will be to purchase the machine from a licensed distributor of charitable gaming supplies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities involved in Question (3): The only cost will be the purchase of the machine should an organization choose to do so.

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): Licensed charitable gaming organizations will have the opportunity to increase their charitable gaming revenues by offering bingo in a new format.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by change, if it is an amendment: There will be no increase in fees or funding necessary to implement this 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 does not establish any new fees.

(9) TIERING: Is tiering applied? No. All licensed charitable organizations are being treated the same.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation: The Kentucky

Department of Charitable Gaming as the agency responsible for implementing this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515(2),(9); KRS 238.545(1)(b).

3. 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 amendment to the administrative regulation will have no effect on expenditures and revenues of any state or local 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? This amendment to the regulation will not generate any new or additional 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? This amendment to the regulation will not generate any new or additional revenues.

(c) How much will it cost to administer this program for the first year? No additional administrative cost.

(d) How much will it cost to administer this program in subsequent years? No additional administrative cost.

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

Revenues (+/-): n/a

Expenditures (+/-): n/a

Other explanation: This amendment to the regulation only revises the method of verifying bingo balls during bingo sessions in order to allow bingo to be played through the use of a random generator.

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)**

820 KAR 1:055. Charity fundraising event standards.

RELATES TO: KRS 238.515(2), (4), (9), 238.535, 238.545, 238.547

STATUTORY AUTHORITY: KRS 238.515(2), (4), (9), 238.545(4)

NECESSITY, FUNCTION, AND CONFORMITY: The Department[Office] of Charitable Gaming is authorized by KRS 238.515(2) to establish reasonable standards for the conduct of charitable gaming. KRS 238.545(4) requires a license in order to conduct a charity fundraising event. This administrative regulation establishes standards for the conduct of charity fundraising events.

Section 1. Issuance of License. (1) An organization shall submit a complete, accurate, and verifiable application on Form CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application [for Charity Fundraising Event License or Special Limited Charity Fundraising Event License], for a charity fundraising event at least thirty (30) days prior to the scheduled date for the charity fundraising event.

(2) A processing fee of twenty-five (25) dollars shall accompany each application for licensure.

(3) At the time the application is filed, the organization shall provide the department[office] with a copy of the executed lease, if applicable.

(4) All information requested by the department[office] shall be submitted and reviewed before a license may be granted.

(5) The department[office] shall issue a license if the applicant possesses a regular charitable gaming license and has met the requirements for licensure set forth in KRS 238.505(8) and 238.545(4).

(6) The event shall not be advertised nor preregistrations taken until a license is issued.

(7) Once a license is issued, players may preregister prior to the day of the event for the event only if payment is received by credit card, check, or electronic fund transfer.

(8) Pursuant to its discretion under KRS 238.505(8), the department[office] has determined that charity game tickets, or pulltabs, shall not be an approved game of chance at a charity fundraising event held by an exempt organization.

Section 2. Special Limited Games Played at a Charity Fundraising Event. The department[office] shall grant approval to play special limited games at a charity fundraising event if the information contained in the application and the totality of the circumstances show that the event meets the requirements of KRS 238.545(4)(d).

Section 3. Volunteers. (1) All individuals involved in the conduct of a charity fundraising event shall be trained in the proper conduct of the game and the control of funds.

(2) The chairperson shall:

(a) Be in charge of the licensed gaming occasion;

(b) Supervise and direct all volunteers; and

(c) Be responsible for assuring the proper receipt and recording of gaming funds.

Section 4. Equipment Used for Events. (1) Poker tables, blackjack tables, prize wheels, and chips, scrip, or imitation money shall not be considered charitable gaming supplies or equipment and may be purchased from ordinary sources of supply. The organization shall not pay for poker tables, blackjack tables, prize wheels or chips, scrip, or imitation money from the charitable gaming account.

(2) Roulette wheels and craps tables shall be considered charitable gaming supplies and shall be obtained from a licensed distributor. The organization shall pay for roulette wheels and craps tables from the charitable gaming account.

(3) If special limited charity games are played, the organization shall provide the department[office] with a copy of the executed contract for the use of those supplies no later than thirty (30) days following the event. This contract shall specify exactly the items provided, at what cost, and from whom.

Section 5. Expenses. (1) The organization shall pay the gaming expenses for the event from the gaming account. All other expenses shall be paid from the general account.

(2) If an expense is both a gaming expense and a general expense, the expense shall be prorated pursuant to the amount of gross receipts obtained from gaming and nongaming events. The full amount shall be paid from the general account and the amount attributable to gaming shall be reimbursed from the gaming account to the general account.

Section 6. Incorporation by Reference. (1) Form CG-Schedule A, "Charity Fundraising Event or Special Limited Charity Fundraising Event License Application", 11/13["Application for Charity Fundraising Event License or Special Limited Charity Fundraising Event License", 4/07], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming, [Environmental and] Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m. Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for the conduct of charity fundraising events and requires organizations use a specific form to apply for a license to conduct a Charity Fundraising Event ("CFE") or Special Limited Charity Fundraising Event ("SLCFE"). The application form is incorporated by reference.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a standardized procedure and application for licensed charitable organizations to apply for and conduct a CFE.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), (9) and 238.545(4). KRS 238.515 (2), (4), and (9) set forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.545(4) sets forth the limits to a licensed charitable organization conducting a CFE or SLCFE. It requires an organization obtain a license to conduct a CFE or SLCFE. This regulation is necessary for the department to uniformly and efficiently collect the information necessary to issue or deny a license to an organization to conduct a CFE.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates effective administration of the statutes by providing a standardized form and procedure for licensed charitable organizations to apply for licensure and to conduct a CFE, and for the department to collect the necessary information to determine if a license can be granted per the statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment incorporates the new CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application. It corrects the improper use of "Office of Charitable Gaming" by changing the language to "Department of Charitable Gaming." Similarly the amendment corrects the improper labeling of the "Public Protection Cabinet" as the "Environmental and Public Protection Cabinet."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to incorporate the new CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application. The amendment was further necessary to note the correct cabinet and department names.

(c) How the amendment conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), (9) and 238.545(4). KRS 238.515 (2), (4),

and (9) set forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.545(4) sets forth the limits to a licensed charitable organization conducting a CFE or SLCFE. It requires an organization obtain a license to conduct a CFE or SLCFE. This regulation amendment incorporates the new CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application, required by the statute. The amendment further corrects regulation to reflect the current cabinet and department names as stated in the statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow the department to more effectively gather the necessary information to grant or deny a license to a licensed charitable organization to conduct a CFE.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will positively impact charitable organizations attempting to obtain a license to conduct a CFE. There are currently 629 licensed charitable organizations. The new CG-Schedule A application form incorporates additional information necessary for the department to make a proper determination whether to grant a license, and should expedite the application process. It will also positively affect the department by incorporating an application form that will better provide the department the information it needs to grant or deny a license to an organization.

(4) Provide an analysis of how the entities identified in Question (3) above 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 applicants for a CFE will be required to use the new CG-Schedule A application when applying for a license. The department will need to update the web site with the new CG-Schedule A and otherwise make the form available for applicants.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in Question (3): The main function of this amendment is to incorporate the new CG-Schedule A application for CFE's and SLCFE's. Licensed charitable organizations are already required to fill out an application form to conduct a CFE and the department is already required to process the applications and either grant or deny a license. As such, the amendment to this regulation will not cost any of the entities identified in Question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): It is anticipated charitable organizations will benefit by requiring less follow up and clarification from the department which should allow applications to be processed more quickly. The department will be provided with the necessary information to grant or deny a license without as much necessary clarification as is currently required due to the present application.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation. There will be no additional funding necessary to enforce the provisions of the amended regulation. The licensing department is already processing applications.

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

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

(9) TIERING: Is tiering applied? No. Only licensed charitable organizations are affected by this regulation and it applies equally to all.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. 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 Department of Charitable Gaming as implementer of this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515 and KRS 238.545.

3. 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 should be no effect on the expenditures or revenues of any government 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? The amendment to the regulation should not generate revenue in the first year or in subsequent years. There may be some limited gain if the new application is easier to understand and process which could lead to more organizations applying for CFE or SLCFE licenses and more licenses being issued, but that is likely nominal. Thus, this regulation is essentially revenue neutral.

(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? See response to (a) above.

(c) How much will it cost to administer this program this program for the first year? It is not anticipated that there will be any cost in administering the program that this regulation relates to.

(d) How much will it cost to administer this program in subsequent years? See response to (c) above.

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

Revenues (+/-): Not applicable; see response to (c) above.

Expenditures (+/-): Not applicable; see response to (c) above.

Other explanation: There should be little to no fiscal impact as the amendment merely updates certain information and does not require any new or additional procedures or actions.

PUBLIC PROTECTION CABINET Department of Charitable Gaming (Amendment)

820 KAR 1:056 Special limited charity fundraising event standards.

RELATES TO: KRS 238.515(2), (4), (9), 238.545(4), 238.547

STATUTORY AUTHORITY: KRS 238.515(2), (4), (9), 238.545(4)

NECESSITY, FUNCTION, AND CONFORMITY: The Department[Office] of Charitable Gaming is authorized by KRS 238.515(2) to establish reasonable standards for the conduct of charitable gaming. KRS 238.545(4) requires a license in order to conduct a special limited charity fundraising event. This

administrative regulation establishes standards for the conduct of special limited charity fundraising events.

Section 1. Issuance of License. (1) An organization shall submit a complete, accurate, and verifiable application on Form CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application[for ~~Charity Fundraising Event License or Special Limited Charity Fundraising Event License~~], for a special limited charity fundraising event at least thirty (30) days prior to the scheduled date for the special limited charity fundraising event.

(2) A processing fee of twenty-five (25) dollars shall accompany each application for licensure.

(3) At the time the application is filed, the organization shall provide the department[office] with a copy of the executed lease, if applicable.

(4) All information requested by the department[office] shall be submitted and reviewed before a license shall be granted.

(5) The department[office] shall issue a license, if the applicant possesses a regular charitable gaming license and has met the requirements for licensure set forth in KRS 238.505(18) and 238.547.

(6) The event shall not be advertised nor preregistrations taken until a license is issued.

(7) Once a license is issued, players may preregister prior to the day of the event for the event only if payment is received by credit card, check, or electronic fund transfer.

(8) A central bank shall be maintained in accordance with KRS 238.547(3).

(9) For all games that require a central bank to be used:

(a)[.] The amount of money received for selling chips, scrip, or imitation money shall be the gross receipts;

(b)[.] All chips, scrip, or imitation money redeemed shall be the payouts[.]; and

(c) All money remaining shall be the adjusted gross receipts.

(10) Games requiring a predetermined amount of chips, scrip, or imitation money shall be precounted. Accurate records shall be kept of all chips, scrip, or imitation money sales, whether the sale is an initial entry fee or a later purchase of chips, scrip, or imitation money.

(11) If the special limited charity games are played as a tournament, then:

(a) A record of attendance shall be kept for the special limited charity games; and

(b) The cost to enter, the cost of the buy backs, the cost of the add ons, the rules of the game, the manner for raising blinds or closing tables, and the prizes shall be listed on the gaming occasion program. The prizes may be listed as a percentage of the receipts.

Section 2. Volunteers. (1) All volunteers involved in the conduct of a special limited charity fundraising event shall be trained in the proper conduct of the game and the control of funds.

(2) The chairperson shall:

(a) Be in charge of the licensed gaming occasion;

(b) Supervise and direct all volunteers; and

(c) Be responsible for assuring the proper receipt and recording of gaming funds.

Section 3. Equipment Used for Events. (1) Poker tables, blackjack tables, prize wheels, and chips, scrip, or imitation money shall not be considered charitable gaming supplies and equipment, and may be purchased from ordinary sources of supply. The organization shall not pay for poker tables, blackjack tables, prize wheels or chips, scrip, or imitation money from the charitable gaming account.

(2) Roulette wheels and craps tables shall be considered charitable gaming supplies and shall be obtained from a licensed distributor. The organization shall pay for roulette wheels and craps tables from the charitable gaming account.

(3) For the special limited charity games played at the event, the organization shall provide the department[office] with a copy of the executed contract for the use of those supplies no later than

thirty (30) days following the event. This contract shall specify exactly the items provided, at what cost, and from whom.

Section 4. Expenses. (1) The organization shall pay the gaming expenses for the event from the gaming account. All other expenses shall be paid from the general account.

(2) If an expense is both a gaming expense and a general expense, the expense shall be prorated pursuant to the amount of gross receipts obtained from gaming and nongaming events. The full amount shall be paid from the general account and the amount attributable to gaming shall be reimbursed from the gaming account to the general account.

(3) Food, beverages, and other items provided to participants without additional payment at an event where only gaming activity takes place shall be considered a promotional expense, if all participants are equally eligible.

Section 5. Incorporation by Reference. (1) Form CG-Schedule A, "Charity Fundraising Event or Special Limited Fundraising Event License Application", 11/13["Application for Charity Fundraising Event License or Special Limited Charity Fundraising Event License 4/07"], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department[Office] of Charitable Gaming, [Environmental and] Public Protection Cabinet, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m.

MARTY HAMMONS, Commissioner

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 23, 2014 at 10:30 a.m. Eastern Time at the Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 the end of the calendar day on January 31, 2014. 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: Noelle J. Bailey, General Counsel, Department of Charitable Gaming, 132 Brighton Park Boulevard, Frankfort, Kentucky 40601, phone (502) 573-5528, fax (502) 573-6625.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Noelle J. Bailey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for the conduct of special limited charity fundraising events and requires organizations use a specific form to apply for a license to conduct a Charity Fundraising Event ("CFE") or Special Limited Charity Fundraising Event ("SLCFE"). The application form is incorporated by reference.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a standardized procedure and application for licensed charitable organizations to apply for and conduct a SLCFE.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), (9) and 238.545(4). KRS

238.515 (2), (4), and (9) sets forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.545(4) sets forth the limits to a licensed charitable organization conducting a CFE or SLCFE. It requires an organization obtain a license to conduct a CFE or SLCFE. This regulation is necessary for the department to uniformly and efficiently collect the information necessary to issue or deny a license to an organization to conduct a SLCFE.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates effective administration of the statutes by providing a standardized form and procedure for licensed charitable organizations to apply for licensure and to conduct a SLCFE, and for the department to collect the necessary information to determine if a license can be granted per the statutes.

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

(a) How the amendment will change this existing administrative regulation: This amendment incorporates the CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application. It corrects the improper use of "Office of Charitable Gaming" by changing the language to "Department of Charitable Gaming." Similarly the amendment corrects the improper labeling of the "Public Protection Cabinet" as the "Environmental and Public Protection Cabinet."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to incorporate the new CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application. The amendment was further necessary to note the correct cabinet and department names.

(c) How the amendment conforms to the content of the authorizing statutes: The statutory authorities for this regulation are KRS 238.515(2), (4), (9) and 238.545(4). KRS 238.515 (2), (4), and (9) sets forth the powers of the department to establish and enforce reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities; to establish standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for; and, to "promulgate administrative regulations which are necessary to carry out the purposes and intent of [KRS Chapter 238]." KRS 238.545(4) sets forth the limits to a licensed charitable organization conducting a CFE or SLCFE. It requires an organization obtain a license to conduct a CFE or SLCFE. This regulation amendment incorporates the new CG-Schedule A, Charity Fundraising Event or Special Limited Charity Fundraising Event License Application, required by the statute. The amendment further corrects the regulation to reflect the current cabinet and department names as stated in the statutes.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow the department to more efficiently and effectively gather the necessary information to grant or deny a license to a licensed charitable organization to conduct a SLCFE.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will positively impact charitable organizations attempting to obtain a license to conduct a SLCFE. There are currently 629 licensed charitable organizations. The new CG-Schedule A application form incorporates additional information necessary for the department to make a proper determination whether to grant a license, and should expedite the application process. It will also positively affect the department by incorporating an application form that will better provide the department the information it needs to grant or deny a license to an organization.

(4) Provide an analysis of how the entities identified in

Question (3) above 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 applicants for a SLCFE license will be required to use the new CG-Schedule A application when applying for a license. The department will need to update the website with the new CG-Schedule A, and otherwise make the form available for applicants.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in Question (3): The main function of this amendment is to incorporate the new CG-Schedule A application for CFE's and SLCFE's. Licensed charitable organizations are already required to fill out an application form to conduct a SLCFE and the department is already required to process the applications and either grant or deny a license. As such, the amendment to this regulation will not cost any of the entities identified in Question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in Question (3): It is anticipated charitable organizations will benefit by requiring less follow up and clarification from the department which should allow applications to be processed more quickly. The department will be provided with the necessary information to grant or deny a license without as much necessary clarification as is currently required due to the present application.

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

(a) Initially: There will be no cost to implement this amendment to the administrative regulation.

(b) On a continuing basis: There should be no additional cost on a continuing basis.

(6) What is the source of the funding to be used in the implementation and enforcement of this administrative regulation: There is no additional funding necessary to implement this amendment to the administrative regulation. There will be no additional funding necessary to enforce the provisions of the amended regulation. The licensing department is already processing applications.

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

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

(9) TIERING: Is tiering applied? No. Only licensed charitable organizations are affected by this regulation and it applies equally to all.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. 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 Department of Charitable Gaming as implementer of this regulation.

2. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.515 and KRS 238.545.

3. 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 should be no effect on the expenditures or revenues of any government 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? The amendment to the regulation should not generate revenue in

the first year or in subsequent years. There may be some limited gain if the new application is easier to understand and process which could lead to more organizations applying for CFE or SLCFE licenses and more licenses being issued, but that is likely nominal. Thus, this regulation is essentially revenue neutral.

(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? See response to (a) above.

(c) How much will it cost to administer this program this program for the first year? It is not anticipated that there will be any cost in administering the program that this regulation relates to.

(d) How much will it cost to administer this program in subsequent years? See response to (c) above.

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

Revenues (+/-): Not applicable; see response to (c) above.

Expenditures (+/-): Not applicable; see response to (c) above.

Other explanation: There should be little to no fiscal impact as the amendment merely updates certain information and does not require any new or additional procedures or actions.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Public Health Division of Maternal and Child Health (Amendment)

902 KAR 4:030. Newborn screening program.

RELATES TO: KRS 214.155

STATUTORY AUTHORITY: KRS 194A.050, 211.090, 214.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 214.155

requires the Cabinet for Health and Family Services to operate a newborn screening program for inborn errors of metabolism and other inherited and congenital disorders and conditions, and to establish a schedule of fees to cover the actual costs to the cabinet for the program. This administrative regulation requires that infants be tested for inborn errors of metabolism and other inherited and congenital disorders and conditions as specified in KRS 214.155, and establishes the schedule of fees to cover actual costs of the newborn screening program.

Section 1. Definitions. (1) "Blood spot testing" means laboratory testing that is performed on newborn infants to detect a wide variety of inherited and congenital disorders and conditions by using a laboratory-authorized filter paper specimen card.

(2) "Critical congenital heart disease" or "CCHD" means an abnormality in the structure or function of the heart that exists at birth and places an infant at significant risk of disability or death if not diagnosed and treated soon after birth.

(3) "Diagnostic echocardiogram" means a test that uses ultrasound to provide an image of the heart that is performed by a technician trained to perform pediatric echocardiograms.

(4) "Laboratory" means the Division of Laboratory Services within the Cabinet for Health and Family Services, Department for Public Health.

(5) "Pediatric cardiologist" means a pediatrician that is board-certified to provide pediatric cardiology care.

(6)[(2)] "Program" means the Newborn Screening Program for inherited and congenital[hereditary] disorders and conditions operated by the Cabinet for Health and Family Services, Department for Public Health.

(7) "Pulse oximetry testing" means a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen.

(8)[(3)] "Submitter" means any hospital, primary care provider, health department, birthing center, laboratory, or midwife submitting an infant's blood specimen for the purpose of newborn screening.

Section 2. Tests for inborn errors of metabolism or other inherited or congenital disorders and conditions for newborn infants as part of newborn screening shall include all conditions consistent with the recommendations of the American College of Medical Genetics (ACMG)[the following tests]:

- (1) 2-Methyl-3-hydroxybutyric aciduria (2M3HBA);
- (2) 2-Methylbutyryl-CoA dehydrogenase deficiency (2MBDH);
- (3) 3-Methylcrotonyl-CoA carboxylase deficiency (3MCC);
- (4) 3-Methylglutaconic aciduria (3MGA);
- (5) 3-Hydroxy 3-Methylglutaric aciduria (HMG);
- (6) Argininemia (ARG);
- (7) Argininosuccinic acidemia (ASA);
- (8) Beta-ketothiolase deficiency (BKT);
- (9) Biotinidase disorder (BIOT);
- (10) Carnitine acylcarnitine translocase deficiency (CACT);
- (11) Carnitine palmitoyl transferase deficiency I (CPT-I);
- (12) Carnitine palmitoyl transferase deficiency II (CPT-II);
- (13) Carnitine uptake defect (CUD);
- (14) Citrullinemia type I (CIT-I);
- (15) Citrullinemia type II (CIT-II);
- (16) Congenital adrenal hyperplasia (CAH);
- (17) Congenital hypothyroidism (CH);
- (18) Critical congenital heart disease (CCHD);
- (19) Cystic fibrosis (CF);
- (20) Ethylmalonic encephalopathy (EE);
- (21) Galactosemia (GAL);
- (22) Glutaric acidemia type I (GA I);
- (23) Glutaric acidemia type II (GA-II);
- (24) Homocystinuria (HCY);
- (25) Hypermethioninemia (MET);
- (26) Hyperphenylalaninemia (H-PHE);
- (27) Isobutyryl-CoA dehydrogenase deficiency (IBG);
- (28) Isovaleric acidemia (IVA);
- (29) Long-chain L-3-OH acyl-CoA dehydrogenase deficiency

(LCAD);

- (30) Malonic acidemia (MAL);
- (31) Maple syrup urine disease (MSUD);
- (32) Medium-chain acyl-CoA dehydrogenase deficiency

(MCAD);

- (33) Methylmalonic acidemia (Cbl A,B);
- (34) Methylmalonic acidemia (Cbl C,D);
- (35) Methylmalonic acidemia mutase deficiency (MUT);
- (36) Multiple carboxylase deficiency (MCD);
- (37) Non-ketotic Hyperglycinemia (NKHG);
- (38) Phenylketonuria (PKU);
- (39) Propionic acidemia (PA);
- (40) Short-chain acyl-CoA dehydrogenase deficiency (SCAD);
- (41) Sickle cell disease (Hb S/S);
- (42) Sickle cell hemoglobin C disease (Hb S/C);
- (43) Sickle cell S Beta Thalassemia (Hb S/Th);
- (44) Trifunctional protein deficiency (TFP);
- (45) Tyrosinemia type I (TYR-I);
- (46) Tyrosinemia type II (TYR-II);
- (47) Tyrosinemia type III (TYR-III);
- (48) Various Hemoglobinopathies (includes Hb E); and
- (49) Very long-chain acyl-CoA deficiency (VLCAD)[3-

methylcrotonyl-CoA carboxylase deficiency (3MCC);

- (2) 3-OH 3-CH3 glutaric aciduria (HMG);
- (3) Argininosuccinic acidemia (ASA);
- (4) Beta-ketothiolase deficiency (BKT);
- (5) Biotinidase disorder;
- (6) Carnitine uptake defect (CUD);
- (7) Citrullinemia (CIT);
- (8) Congenital adrenal hyperplasia (CAH);
- (9) Congenital hypothyroidism;
- (10) Cystic fibrosis (CF);
- (11) Galactosemia;
- (12) Glutaric acidemia type I (GA I);
- (13) Hb S/beta-thalassemia (Hb S/Th);
- (14) Hb S/C disease (Hb S/C);
- (15) Homocystinuria (HCY);
- (16) Isovaleric acidemia (IVA);
- (17) Long-chain L-3-OH acyl-CoA dehydrogenase deficiency

(LCHAD);

- (18) Maple syrup urine disease (MSUD);
 - (19) Medium-chain acyl-CoA dehydrogenase deficiency
- (MGAD);
- (20) Methylmalonic acidemia (Cbl A,B);
 - (21) Methylmalonic acidemia mutase deficiency (MUT);
 - (22) Multiple carboxylase deficiency (MCD);
 - (23) Phenylketonuria (PKU);
 - (24) Propionic acidemia (PA);
 - (25) Short-chain acyl-CoA dehydrogenase deficiency (SCAD);
 - (26) Sickle cell disease;
 - (27) Trifunctional protein deficiency (TFP);
 - (28) Tyrosinemia type I (TYR I); and
 - (29) Very long-chain acyl-CoA deficiency (VLCAD)].

Section 3. Submitter Responsibilities. (1) Except as provided in KRS 214.155(5)(4), the administrative officer[,], or other person in charge of the hospital or institution caring for newborn infants[,], and the attending primary care provider[physician] or midwife shall administer to, or verify administration of tests to, every infant in its care prior to hospital discharge[.];

(a)[.]; A blood spot test to detect inborn errors of metabolism or other inherited and congenital disorders and conditions identified in Section 2 of this administrative regulation; and

(b) Pulse oximetry testing to detect critical congenital heart disease[prior to hospital discharge].

(2) If a baby is not born in a hospital or institution, the attending primary care provider[physician] or midwife shall ensure[be responsible for ensuring] that both[these] tests required by subsection (1) of this section are:

(a) Administered between twenty-four (24) and forty-eight (48) hours of age;

(b) Acted up if abnormal; and

(c) Reported to the program using the cabinet's web-based system.

(3)[2] A capillary blood spot specimen shall be obtained from a newborn infant[,], not requiring an extended stay due to illness or prematurity[,], between twenty-four (24) and forty-eight (48) hours of age.

(4)[3] If the infant is to remain in the hospital due to illness or prematurity, the hospital shall obtain the capillary blood spot specimen from that infant after twenty-four (24) and before seventy-two (72) hours of age.

(5) The pulse oximetry testing shall be performed when the infant is twenty-four (24) hours of age or older and shall occur prior to, but no later than, the day of discharge.

(6) If the infant is discharged prior to twenty-four (24) hours of age, the blood spot and pulse oximetry testing shall be performed as close to twenty-four (24) hours of age as possible.

(7)[4] If an infant is transferred from the birth hospital to another hospital during the newborn hospital stay, the [following] rules established in this subsection shall apply[.];

(a) The sending hospital shall obtain the capillary blood spot specimen for the newborn screening blood test and the pulse oximetry testing for CCHD if the infant is twenty-four (24) hours of age or more when the infant is transferred to another hospital.

(b) The receiving hospital shall ensure the newborn screening blood spot test and the pulse oximetry testing are[is] performed if the infant is less than twenty-four (24) hours of age when the infant is transferred.

(8) If an infant expires before the newborn screening blood spot test and pulse oximetry test have been performed, the program shall be notified within five (5) calendar days.

(9)[5] If the information on the filter paper specimen card obtained by the submitter and sent to the laboratory is incomplete or inadequate, then the submitter, upon request of the program, shall:

(a) Attempt[use all reasonable efforts] to locate the infant and obtain a complete and adequate specimen within ten (10) days; and

(b) Report to the program a[. If the submitter is unable to obtain the] specimen that is unable to be obtained within ten (10) days[; this shall be reported to the program].

(10) Submitters~~(6)~~ that are responsible for the collection of the initial blood spot specimen and pulse oximetry testing for newborn screening shall:

(a) Provide to an infant's parent or guardian educational materials regarding newborn screening and pulse oximetry testing;

(b) Designate a newborn screening coordinator and physician responsible for the coordination of the facility's newborn screening compliance by having a newborn screening protocol;

(c) Notify the program of the name of the individuals designated in paragraph[subsection –(6)] (b) of this section each year in January and if the designated individual changes; and;

(d) Develop a written protocol for tracking newborn screening compliance which[.This protocol] shall:

1. Be submitted to the program each year in January; and

2. Include, at a minimum; [.The protocol shall include]

a. A requirement that the name of the primary care provider that will be[physician] attending the infant after birth or discharge or, if known, the primary care provider who will be caring for the infant after discharge, shall[or a designee] be placed on the filter paper specimen card sent with the initial blood spot specimen to the laboratory. If the infant is in the neonatal intensive care unit, the name of the attending neonatologist may be placed on the filter specimen card sent with the initial blood spot specimen to the laboratory;

b.[2. The protocol shall include] Verification that:

(i) Each infant born at that facility has had a specimen obtained for newborn screening and pulse oximetry testing on or before discharge;

(ii) All information on the specimen card has been thoroughly completed; and

(iii) The specimen has been submitted appropriately;

c. A process to ensure that final results of the pulse oximetry screening are entered into the Cabinet's web-based system; and

d. A procedure to assure the hospital or facility[and notification shall occur to the program within seven (7) days if any infant is missed; and

3. The hospital or facility] that identifies that an infant has not had a specimen obtained for newborn screening and pulse oximetry testing prior to discharge shall:

(i) Notify the program;

(ii) Use every reasonable effort to locate the infant;

(iii) Notify the parent or guardian and the primary care provider immediately; and

(iv) Recommend that the infant present to the hospital or primary care provider immediately for a newborn screening blood spot specimen and pulse oximetry testing[use every reasonable effort to locate the infant and recommend that they present to the hospital or their primary care provider for a newborn screening specimen to be obtained].

(11)[(e)] Hospitals or facilities shall report all written refusals, in accordance with KRS 214.155(4), to the program within five (5) calendar[seven (7)] days.

Section 4. Blood Specimen Collection. (1) Capillary blood spot specimens required in Section 3 of this administrative regulation shall be obtained by a heel stick.

(2) Blood from the heel stick shall be applied directly to filter paper specimen card.

(3) All circles shall be saturated completely using a drop of blood per circle on a filter paper specimen card.

(4) The specimen collector shall provide, on the filter paper specimen card, information requested by the laboratory.

(5)[(2)] The capillary blood spot specimen shall be air dried for three (3) hours and then shall be mailed or sent to the laboratory;

(a) Within twenty-four (24) hours of collection of the specimen; or

(b) The next business day in which mail or delivery service is available.

(6)[(3)] Submitters sending[send] blood spot specimens via regular mail services shall ensure the specimens are sent to the following address: to the Cabinet for Health and Family Services, Department for Public Health, Division of Laboratory Services, P.O. Box 2010, Frankfort, Kentucky 40602.

(7) Submitters sending blood spot specimens via expedited mail services shall ensure the specimens are sent to the following address: Cabinet for Health and Family Services, Department for Public Health, Division of Laboratory Services, 10 Sower Boulevard, Suite 204, Frankfort, Kentucky 40602.

(8)[(4)] Specimens processed or tracked under the newborn screening program shall be limited to specimens on infants less than six (6) months of age.

Section 5. Unsatisfactory or Inadequate Blood Specimen. (1) If a specimen is unsatisfactory or inadequate to produce a valid result, the laboratory shall notify the submitter and the parent[primary care provider] on the filter paper specimen card[by mail] that the newborn screen needs to be repeated as soon as possible.

(2) If a requested repeat specimen has not been received within ten (10) business days from the date the repeat request was issued, the program[laboratory] shall notify the parent by mail of the need for a repeat screening test.

Section 6. Special Circumstances - Blood Transfusion. If a newborn infant requires a blood transfusion, the following rules for newborn screening shall apply:

(1) The hospital shall obtain a capillary blood sample for newborn screening prior to the infant being transfused, except in an emergency situation.

(2) If the pre-transfusion sample was obtained before twenty-four (24) hours of age, or if it was not obtained due to an emergency situation, then the hospital or primary care provider shall use all reasonable efforts to obtain a repeat capillary blood specimen from the transfused infant and submit it to the laboratory according to the following schedule:

(a) Seventy-two (72) hours after last blood transfusion, rescreen for inborn errors of metabolism and inherited and congenital disorders and conditions listed in Section 2 of this administrative regulation; and

(b) Ninety (90) days after last blood transfusion, rescreen for any disorder that relies on red blood cell analysis such as hemoglobinopathies, galactosemia, and biotinidase deficiency.

Section 7. Reporting~~of~~ Results of Newborn Screening Blood Tests. (1) Normal Results. Upon receipt of normal lab results, the laboratory shall mail results to the primary care provider and the submitter.

(2) Abnormal Results.

(a) Submitters and primary care providers shall receive a copy of all abnormal, presumptive positive, and equivocal results by mail.

(b) In addition to receiving mailed results, primary care providers shall be notified of abnormal, presumptive positive, and equivocal results in the following manner:

1. Upon receipt of an abnormal, equivocal, or a presumptive positive lab result, the laboratory[program] shall immediately notify the primary care provider listed on the filter paper specimen card within two (2) business days of the result and the need for[recommending appropriate] follow-up testing.

2. Upon receipt of a presumptive positive lab[an equivocal result] result, the program shall notify the primary care provider listed on the filter paper specimen card[within two (2) business days] of the result and recommend immediate consultation with a university pediatric specialist[next-step recommendations].

3. If the program is unable to determine the infant's[ascertain a correct] primary care provider to notify them of abnormal, presumptive positive, or equivocal results and the need for follow-up, the program[for a specimen to be obtained, for repeat screen or referral, they] shall use every available means to ensure[contact] the parent of the infant has been notified.

(c) The Cabinet for Health and Family Services shall share pertinent test results with state university-based specialty clinics or primary care providers who inform the cabinet[that] they are treating the infant who received the test.

(d) The cabinet[, and] may share pertinent test results with the local health department in the infant's county of residence that

conducts newborn screening follow-up activities.

(e) These specialty clinics or primary care providers shall report results of diagnostic testing to the program within thirty (30) days or earlier upon request.

(f)(4) The laboratory shall report abnormal, presumptive positive, or equivocal results of tests for inborn errors of metabolism, and inherited and congenital disorders and conditions [inborn errors of metabolism] to the program [on behalf of the hospitals and submitters].

(g)(e) If a requested repeat specimen has not been received within ten (10) business days from the date the repeat request was issued, the program shall notify the parent by mail of the need for a repeat screening test.

Section 8. Pulse oximetry screening for critical congenital heart disease. Pulse oximetry screening for critical congenital heart defects required by Section 2 of this administrative regulation shall be consistent with the standard of care according to national recommendations by the American Academy of Pediatrics.

Section 9. Pulse Oximetry Screening Process. (1) Pulse oximetry testing shall be performed when the infant is between twenty-four (24) and forty-eight (48) hours of age and shall occur no later than the day of discharge.

(2) If the infant is discharged prior to twenty-four (24) hours of age, the blood spot and pulse oximetry testing shall be performed as close to twenty-four (24) hours of age as possible.

(3) Infants in neonatal intensive care units shall be screened when medically appropriate after twenty-four (24) hours of age but prior to discharge.

(4) Infants who have been identified with critical congenital heart disease prior to birth or prior to twenty-four (24) hours of age shall be exempt from the pulse oximetry screening process.

(5) Pulse oximetry screening shall be performed by placing pediatric pulse oximetry sensors simultaneously on the infant's right hand and either foot to obtain oxygen saturation results.

(6) If using a single pediatric pulse oximetry sensor, pulse oximetry screening shall be performed on the infant's right hand and either foot, one after the other, to obtain oxygen saturation results.

Section 10. Pulse Oximetry Testing Results. (1) A passed result shall require no further action if:

(a) The pulse oximetry reading in both extremities is greater than or equal to ninety-five (95) percent; and

(b) The difference between the readings of both the upper and lower extremity is less than or equal to three (3) percent.

(2)(a) A pending result shall:

1. Occur if:

a. The pulse oximetry reading is between ninety (90) and ninety-four (94) percent; or

b. The difference between the readings of both the upper and lower extremity is greater than three (3) percent; and

2. Be repeated using the pulse oximetry screening in one (1) hour.

(b) If a repeated pulse oximetry screen is also interpreted as pending, it shall be performed in one (1) hour.

(c) If the pulse oximetry result on the third screen continues to meet the criteria as pending after three (3) screenings have been performed, it shall be considered failed.

(3) A failed result shall occur if the initial pulse oximetry reading is less than ninety (90) percent in the upper or lower extremity and shall require the following action:

(a) The primary care provider shall be notified immediately;

(b) The infant shall be evaluated for the cause of the low saturation reading; and

(c) If CCHD cannot be ruled out as the cause of the low saturation reading, the attending physician or advanced practice registered nurse shall:

1. Order a diagnostic echocardiogram to be performed without delay;

2. Ensure the diagnostic echocardiogram be interpreted as soon as possible; and

3. If the diagnostic echocardiogram results are abnormal, obtain a consultation with a pediatric cardiologist prior to hospital discharge.

Section 11. Reporting Results of Pulse Oximetry Screening. (1) Final results of the pulse oximetry screening shall be entered into the cabinet's web-based system.

(2) A failed result shall be immediately reported to the program as specified by the cabinet.

Section 12. Newborn Screening Fees. (1) Submitters obtaining and sending a blood specimen to the laboratory shall be billed a fee of \$53.50 for the initial newborn screening test.

(2) Submitters obtaining and sending a repeat blood specimen to the laboratory shall not be charged an additional fee of \$53.50.

(3) Fees due the Cabinet for Health and Family Services shall be collected through a monthly billing system.

STEPHANIE MAYFIELD GIBSON, MD, FCAP, Commissioner

AUDREY HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2013

FILED WITH LRC: December 11, 2013 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 22, 2014, at 9:00 a.m. in the Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 15, 2014, 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 regarding this proposed administrative regulation. You may submit written comments on the proposed administrative regulation until 11:59 p.m., January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone 502-564-7905, fax 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

CONTACT PERSON: Troi Cunningham

(1) Provide a brief summary of 902 KAR 4:030:

(a) What this administrative regulation does: This administrative regulation requires that all infants born in Kentucky receive the newborn screening test, which now is to include pulse oximetry testing for critical congenital heart disease. This amendment provides associated definitions and protocol.

(b) The necessity of this administrative regulation: 902 KAR 4:030 improves outcomes for Kentucky's infants by ensuring testing for inborn errors of metabolism and other inherited and congenital disorders and conditions.

(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 214.155 requires that the Cabinet for Health and Family Services to operate a newborn screening program for inborn errors of metabolism and other inherited and congenital disorders and conditions, which now shall include pulse oximetry screening for critical congenital heart disease.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation is needed to provide guidance and clarity for the implementation of the pulse oximetry screening for critical congenital heart disease.

(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 adds the following definitions: blood spot testing, critical congenital heart disease, diagnostic echocardiogram, pediatric cardiologist, and pulse oximetry testing.

The amendment adds the pulse oximetry protocol and outlines mandatory reporting and follow-up requirements.

(b) The necessity of the amendment to this administrative regulation: SB 125 was signed into law on April 17, 2013 to amend KRS 214.155, thus adding pulse oximetry screening for critical congenital heart disease to Kentucky's newborn screening panel. The amended statute is required to be in effect January 1, 2014.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 214.155 charges the Cabinet for Health and Family Services, Department for Public Health to ensure that all infants born in Kentucky receive the newborn screening test, which now should include pulse oximetry screening for critical congenital heart disease as endorsed by the American College of Medical Genetics.

(d) How the amendment will assist in the effective administration of the statutes: These amendments will help to assure compliance with state statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation: Approximately 53,000 infants each year, their families, Kentucky's birthing hospitals, primary care providers, midwives and university pediatric cardiologists will be affected by this regulation. No state or local governments are affected by the 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: Regulated entities will continue to provide newborn screening as they currently practice with the addition of pulse oximetry testing for critical congenital heart disease. Entities who perform these duties will utilize a new component of the Cabinet's web-based system for patient records and reporting.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are minimal costs, five (5) to fifteen (15) dollars per child per screening, to entities to comply with the amended regulation.

(c) As a result of the compliance, what benefits will accrue to the entities identified in question (3): Kentucky's infants will undergo routine screening for critical congenital heart disease which exists at birth and places an infant at significant risk of disability or death if not diagnosed and treated soon after birth.

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

(a) Initially: The Department for Public Health estimates that it will cost \$50,000 to implement the provisions of this amended regulation.

(b) On a continuing basis: There would be minimal costs on a continuing basis, primarily related to continued maintenance and staffing for the web-based reporting system.

(6) What is the source of the funding that will be used for the implementation and enforcement of the 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 this 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 increase any fees? No, this administrative regulation does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the Newborn Screening regulations apply consistently for all infants born in Kentucky and their families.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 impacts the birthing hospitals, midwives, university specialists as well as the state administrative office that governs the Newborn Screening Program.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, KRS 211.090, KRS 214.155

3. 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? There will be no new revenue 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? There will be no revenues generated by this administrative.

(c) How much will it cost to administer this program for the first year? The Department for Public Health estimates that it will cost \$50,000 to implement the provisions of this amended regulation. The implementation of Critical Congenital Heart Disease Screening will require edits to the electronic web-based reporting system that is currently used for collection of Newborn Screening information. These costs will be addressed through the cabinet's maintenance of the system.

(d) How much will it cost to administer this program for subsequent years? There would be minimal costs for subsequent years, primarily related to continued maintenance and staffing for the web-based reporting 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:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Policy and Operations (Amendment)

907 KAR 1:350. Coverage and payments for organ transplants.

RELATES TO: KRS 205.520, 42 C.F.R. 447.53

STATUTORY AUTHORITY: 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program. KRS 205.520(3) empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds~~[for the provision of medical assistance to Kentucky's indigent citizenry]~~. This administrative regulation establishes provisions related to the coverage of organ transplants.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Emergency" means that a condition or situation requires an emergency service pursuant to 42 C.F.R. 447.53.

(3) "Enrollee" means a recipient who is enrolled with a managed care organization.

(4) "Experimental" means that a procedure has not previously been proven effective by the U.S. Food and Drug Administration in treating a patient's health condition.

(5) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(6)[(4)] "Medical necessity" or "medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(7)[(5)] "Nonemergency" means that a condition or situation does not require an emergency service pursuant to 42 C.F.R. 447.53.

(8) "Recipient" is defined by KRS 205.8451(9).

Section 2. Prior Authorization. (1) Prior to coverage of an organ transplant to a recipient who is not an enrollee, the transplant shall have been~~be~~ determined by the department to be:

(a) Medically necessary; and
(b) Clinically appropriate pursuant to the criteria established in 907 KAR 3:130.

(2) The requirements established in subsection (1) of this section shall not apply to an emergency service.

Section 3. General Coverage Criteria. A covered organ transplant shall meet the following criteria:

(1) A transplant surgeon's opinion shall conclude that failure to perform the transplant would create a life-threatening situation;

(2) The patient's prognosis shall indicate that there is a reasonable expectation the transplant will be successful and result in prolonged life of quality and dignity;

(3) The hospital where the transplant will take place shall:

(a) Have a staffed and functioning unit designed for and accustomed to performing the planned organ transplant;

(b) Be accredited by the Joint Commission on Accreditation of Healthcare Organizations; and

(c) Be in good standing:

1. If it is an in-state hospital, with the Cabinet for Health and Family Services; or

2. If it is an out-of-state hospital, with that state's licensure authority; and

(4) The physician performing the transplant shall be recognized as competent by the medical community.

Section 4. Reimbursement for Organ Transplants. For an organ transplant provided by a:

(1) Hospital to a recipient who is not an enrollee, the department shall reimburse as established in 907 KAR 10:825; or

(2) Physician to a recipient who is not an enrollee, the department shall reimburse in accordance with 907 KAR 3:010[(4)] Payment to a hospital for an organ transplant shall be set at eighty (80) percent of the hospital's usual and customary charge with total payments not to exceed \$75,000 per transplant.

~~(2) If the payment methodology established in subsection (1) of this section restricts or prohibits the availability of a needed transplant procedure or service, the department's commissioner may approve on a case-by-case basis payment that exceeds \$75,000 per transplant.~~

~~(3) Reimbursement to a physician for an organ transplant shall be made in accordance with the Medicaid Physician Fee Schedule established in 907 KAR 3:010].~~

Section 5. Noncovered Services. The department shall not approve a request for an organ transplant if the requested transplant:

(1) Fails to meet the criteria of Sections 2 or 3 of this administrative regulation; or

(2) Is experimental in nature.

Section 6. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse for an organ transplant according to this administrative regulation.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2013

FILED WITH LRC: December 11, 2013 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 22, 2014 at 9:00 a.m. in the Health Services

Auditorium, Suite B, of the Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 15, 2014 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 11:59 p.m., January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, 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: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Department for Medicaid Services (DMS) coverage and reimbursement provisions and requirements for organ transplants.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's coverage and reimbursement provisions and requirements for organ transplants.

(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 DMS's coverage and reimbursement provisions and requirements for organ transplants.

(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 authorizing statutes by establishing DMS's coverage and reimbursement provisions and requirements for organ transplants.

(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 establishes that DMS will reimburse for organ transplants performed by a hospital as established in its inpatient hospital reimbursement regulation 907 KAR 10:825. 907 KAR 10:825 uses a diagnosis-related group (or DRG) reimbursement methodology. This methodology sets a reimbursement amount based on the resources associated with the care provided to a given patient. DMS currently reimburses a hospital for organ transplants eighty (80) percent of the hospital's usual and customary charge not to exceed \$75,000. Additionally, the amendment clarifies that managed care organizations are not required to reimburse the same amount or in the same manner as DMS reimburses for organ transplants.

(b) The necessity of the amendment to this administrative regulation: The amendment establishing that DMS will reimburse for organ transplants as established in 907 KAR 10:825 (via a diagnosis-related group methodology) is necessary to reimburse for organ transplants provided by a hospital in a manner that more accurately reflects the health care resources involved in the given transplant. The clarification regarding managed care organization reimbursement for organ transplants is necessary to comport with DMS's contracts with the managed care organizations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by revising DMS's reimbursement for organ transplants in a way that that more accurately reflects the health care resources involved in the given transplant.

(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 revising

DMS's reimbursement for organ transplants in a way that that more accurately reflects the health care resources involved in the given transplant

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The amendment applies to all inpatient acute care hospitals reimbursed by a diagnosis related grouper methodology. Currently, there are sixty-five (65) such hospitals participating in the Kentucky Medicaid 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. No compliance action is mandated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment imposes no cost on the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of the amendment hospitals will be reimbursed for organ transplants via a diagnostic related group (DRG) methodology rather than via the current method of eighty (80) percent of the hospital's usual and customary charge not to exceed \$75,000.

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

(a) Initially: DMS estimates that converting reimbursement for all organ transplants to the reimbursement methodology (diagnosis-related group methodology) established in 907 KAR 10:825 could annually increase DMS's expenditures anywhere from \$44,523 (state and federal funds combined) to \$242,933 (state and federal funds combined.)

(b) On a continuing basis: DMS estimates that converting reimbursement for all organ transplants to the reimbursement methodology (diagnosis-related group methodology) established in 907 KAR 10:825 could annually increase DMS's expenditures anywhere from \$44,523 (state and federal funds combined) to \$242,933 (state and federal funds combined.)

(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 Title XIX of the Social Security Act 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 will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the provisions apply equally to the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30).

2. State compliance standards. KRS 205.520(3) states, "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. Medicaid reimbursement for services is required to be consistent with efficiency, economy and quality of care and be sufficient to attract enough providers to assure access to services. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to:

"...provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The policy is not stricter than the federal standard.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 (DMS) will be impacted by the amendment as will any government-owned hospitals.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.

3. 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 revenue being generated for the first year for state or local government due to the amendment to 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? DMS anticipates no revenue being generated in subsequent years for state or local government due to the amendment to this administrative regulation.

(c) How much will it cost to administer this program for the first year? DMS estimates that converting reimbursement for all organ transplants to the reimbursement methodology (diagnosis-related group methodology) established in 907 KAR 10:825 could annually increase DMS's expenditures anywhere from \$44,523 (state and federal funds combined) to \$242,933 (state and federal funds combined).

(d) How much will it cost to administer this program for subsequent years? DMS estimates that converting reimbursement for all organ transplants to the reimbursement methodology (diagnosis-related group methodology) established in 907 KAR 10:825 could annually increase DMS's expenditures anywhere from \$44,523 (state and federal funds combined) to \$242,933 (state and federal funds combined).

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 Policy and Operations
(Amendment)

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

RELATES TO: KRS 13B.140, 142.303, 205.510(16), 205.565, 205.637, 205.638, 205.639, 205.640, 205.641, 216.380, 42 C.F.R. Parts 412, 413, 440.10, 440.140, 447.250-447.280, 42 U.S.C. 1395f(l), 1395ww(d)(5)(F), x(mm), 1396a, 1396b, 1396d, 1396r-4, Pub.L. 111-148

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(2), 205.637(3), 205.640(1), 205.641(2), 216.380(12), 42 C.F.R. 447.200, 447.250, 447.252, 447.253, 447.271, 447.272, 42 U.S.C. 1396a, 1396r-4

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 a requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the method for determining the amount payable via a diagnosis-related group methodology by the Medicaid Program for acute care inpatient hospital services provided to a Medicaid recipient who is not enrolled with a managed care organization[a hospital inpatient service including provisions necessary to enhance reimbursement pursuant to KRS 142.303 and 205.638].

Section 1. Definitions. (1) "2552-10 format" means the format used by the Centers for Medicare and Medicaid Services for a Medicare cost report period ending on or after April 1, 2011.

(2) "2552-96 format" means the format used by the Centers for Medicare and Medicaid Services for a Medicare cost report period ending prior to April 1, 2011.

(3) "Acute care hospital" is defined by KRS 205.639(1).

(4) "Aggregate target payments" means an outcome in which estimated aggregate payments in the universal rate year using trimmed base year claims data do not exceed trimmed base year claims data aggregated reported payments adjusted by the trending factor.

(5)[(2)] "Adjustment factor" means the factor by which non-neonatal care relative weights shall be reduced to offset the expenditure pool adjustment necessary to enhance neonatal care relative weights.

(3)] "Appalachian Regional Hospital System" means a private, not-for-profit hospital chain operating in a Kentucky county that receives coal severance tax proceeds.

(6) "APR-DRG" means the clinically similar grouping of services that:

(a) Can be expected to consume similar amounts of hospital resources assigned by 3M's All-Patient Refined Diagnosis Related Group software; and

(b) Includes the:

1. Diagnosis related group;

2. Severity of illness assignment; and

3. Risk of mortality subclass.

(7) "APR-DRG average length of stay" means the arithmetic mean length of stay for each APR-DRG, calculated by multiplying the 3M national average length for each APR-DRG by a day's adjustment factor.

(8) "APR-DRG base payment" means the base payment for claims paid under the DRG methodology.

(9) "APR-DRG base rate" means the per discharge statewide APR-DRG rate for an acute care hospital that is multiplied by the relative weight and applicable policy adjuster to calculate the DRG base payment.

(10) "APR-DRG relative weight" means the factor that is:

(a) Assigned to each APR-DRG that represents the average resources required for an APR-DRG classification paid under the DRG methodology relative to the average resources required for all

DRG discharges in the state paid under the DRG methodology for the same time period; and

(b) Calculated by dividing the 3M APR-DRG national weights by a case mix scaling factor.

(11)[(4)] "Base rate" means the per discharge hospital-specific DRG rate for an acute care hospital that is multiplied by the relative weight to calculate the DRG base payment.

(5)] "Base year" means:

(a) For establishing the initial APR-DRG base rates effective April 1, 2014, [the] state fiscal year 2010; and

(b) In subsequent years for the purpose of rebasing rates, the state fiscal year that includes the most recently fully adjudicated state fiscal year of claims data available at the time that the rate calculations are performed [period used to establish DRG rates].

(12) "Case mix scaling factor" means the multiplier necessary that results in the statewide average case mix index equaling 1.0 using trimmed base year claims data.

(13)[(6)] "Base year Medicare rate components" means Medicare inpatient prospective payment system rate components in effect on October 1 during the base year as listed in the CMS IPPS Price Program.

(7) "Budget neutrality" means that reimbursements resulting from rates paid to providers under a per discharge methodology do not exceed payments in the base year adjusted for inflation based on the CMS Input Price Index, which is the wage index published by CMS in the Federal Register.

(8) "Budget neutrality factor" means a factor that is applied to a DRG base rate or the direct graduate medical educational payment so that budget neutrality is achieved.

(9) "Capital cost" means capital related expenses including insurance, taxes, interest and depreciation related to plant and equipment.

(40)] "CMS" means the Centers for Medicare and Medicaid Services.

(14)[(44)] "CMS IPPS Pricer Program" means the software program published on the CMS website of <http://www.cms.hhs.gov> which shows the Medicare rate components and payment rates under the Medicare inpatient prospective payment system for a discharge within a given federal fiscal year.

(15) "Coding and documentation improvement adjustment" means an adjustment to the APR-DRG relative weights to account for changes in case mix due to improvements in medical record documentation and improvements in claim coding.

(16) "Corridor adjustment factors" means the provider-specific adjustment factors applied to the total hospital-specific per discharge payment that result in estimated provider pay-to-cost ratios using base year claims data being within the pay-to-cost corridor.

(17)[(42)] "Cost center specific cost-to-charge ratio" means a ratio of a hospital's cost center specific total hospital costs to its cost center specific total charges extracted from the Medicare cost report that best matches [corresponding to the hospital full fiscal year falling within] the base year claims data [date] period.

(18)[(43)] "Cost outlier" means a claim for which estimated cost exceeds the outlier threshold.

(19)[(44)] "Critical access hospital" or "CAH" means a hospital:

(a) Meeting the licensure requirements established in 906 KAR 1:110; and

(b) Designated as a critical access hospital by the department.

(20)[(45)] "Department" means the Department for Medicaid Services or its designated agent.

(21)[(46)] "Diagnosis codes [code]" means the codes [a code]:

(a) Used by the department's grouper software [Maintained by the Centers for Medicare and Medicaid Services (CMS)] to group and identify a disease, disorder, symptom, or medical sign; and

(b) Used to measure morbidity and mortality.

(22)[(47)] "Diagnostic categories" means the diagnostic classifications containing one or more DRGs used by Medicare programs, assigned in the base year with modifications established in Section 2(15) of this administrative regulation.

(48)] "Diagnostic related group" or "DRG" means a clinically-similar grouping of services that can be expected to consume similar amounts of hospital resources.

(23)[(19)] "Distinct part unit" means a separate unit within an acute care hospital that meets the qualifications established in 42 C.F.R. 412.25 and is designated as a distinct part unit by the department.

(24) "Enrollee day" means a day of an inpatient hospital stay of a Medicaid recipient who is enrolled with a managed care organization.

(25)[(20)] "DRG average length of stay" means the Kentucky arithmetic mean length of stay for each DRG, calculated by dividing the sum of patient days in the base year claims data for each DRG by the number of discharges for each DRG.

(21) "DRG base payment" means the base payment for claims paid under the DRG methodology.

(22) "Enhanced neonatal care relative weight" means a neonatal care relative weight increased, with a corresponding reduction to non-neonatal care relative weights, to facilitate reimbursing neonatal care at 100 percent of Medicaid allowable costs in aggregate by category.

(23)] "Federal financial participation" is defined by 42 C.F.R. 400.203.

(26)[(24)] "Fixed loss cost threshold" means [the amount, equal to] \$29,000.

(27)[, which is combined with the full DRG payment or transfer payment for each DRG to determine the outlier threshold.

(25) "Geometric mean" means the measure of central tendency for a set of values expressed as the n th (number of values in the set) root of their product.

(26)] "Government entity" means an entity that qualifies as a unit of government for the purposes of 42 U.S.C. 1396b(w)(6)(A).

(27) "High intensity level II neonatal center" means an in-state hospital with a level II neonatal center which:

(a) Is licensed for a minimum of twenty-four (24) neonatal level II beds;

(b) Has a minimum of 1,500 Medicaid neonatal level II patient days per year;

(c) Has a gestational age lower limit of twenty-seven (27) weeks; and

(d) Has a full-time perinatologist on staff.]

(28)[("High volume per diem payment" means a per diem add-on payment made to hospitals meeting selected Medicaid utilization criteria established in Section 2(12) of this administrative regulation.

(29)] "Hospital-acquired condition" means a condition:

(a) 1. Associated with a diagnosis code selected by the Secretary of the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1395ww(d)(4)(D); and

(b) 2. Not present upon the recipient's admission to the hospital; or

(b) Which is recognized by the APR-DRG grouper[Centers for Medicare and Medicaid Services] as a hospital-acquired condition.

(29)[(30)] "Indexing factor" means the percentage that the cost of providing a service is expected to increase during the universal rate year.

(31)] "Inflation factor" means the percentage that the cost of providing a service has increased, or is expected to increase, for a specific period of time based on changes in the CMS Ipps hospital input price index.

(30)[(32)] "Intrahospital transfer" means a transfer within the same acute care hospital resulting in a discharge from and a new admission to a licensed and certified acute care bed, psychiatric distinct part unit, or rehabilitation distinct part unit.

(31)[(33)] "Level I neonatal care" or "Level I DRG" means care provided to newborn infants of a more intensive nature than the usual nursing care provided in newborn care units, on the basis of physicians' orders and approved nursing care plans, which are assigned to DRGs 385-390.

(34) "Level II neonatal center" means a facility with a licensed level II bed which provides specialty care (DRGs 675-680) for infants which includes monitoring for apnea spells, incubator or other assistance to maintain the infant's body temperature, and feeding assistance.

(35) "Level III neonatal center" means a facility with a licensed level III bed which provides specialty care (DRGs 685-690) of infants which includes ventilator or other respiratory assistance for

infants who cannot breathe adequately on their own, special intravenous catheter to monitor and assist blood pressure and heart function, observation and monitoring of conditions that are unstable or may change suddenly, and postoperative care.

(36)] "Long-term acute care hospital" means a long term care hospital that meets the requirements established in 42 C.F.R. 412.23(e).

(32) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(33) "Medicaid fee-for-service claim" means a claim related to care provided to a Medicaid recipient who is not enrolled with a managed care organization.

(34) "Medicaid fee-for-service covered day" means an inpatient hospital day associated with a Medicaid recipient who is not enrolled with a managed care organization.

(35)[(37)] "Low intensity level III neonatal center" means a facility with one (1), two (2), or three (3) licensed level III neonatal beds.

(38)] "Medicaid shortfall" means the difference between a provider's allowable cost of providing services to Medicaid recipients and the amount received in accordance with the payment provisions established in Section 2 of this administrative regulation.

(36)[(39)] "Medical education costs" means direct and allowable costs that are:

(a) Associated with an approved intern and resident program; and

(b) Subject to limits established by Medicare.

(37) "MDC" means the major diagnostic categories associated with each APR-DRG classification.

(38)[(40)] "Medically necessary" or "medical necessity" means that a covered benefit shall be provided in accordance with 907 KAR 3:130.

(39)[(41)] "Never event" means:

(a) A procedure, service, or hospitalization not reimbursable by Medicare pursuant to CMS Manual System Pub 100-03 Medicare National Coverage Determinations Transmittal 101; or

(b) A hospital-acquired condition.

(40)[(42)] "Outlier threshold" means the sum of the APR-DRG base payment or transfer payment and the fixed loss cost threshold.

(41)[(43)] "Pediatric teaching hospital" is defined in KRS 205.565(1).

(42)[(44)] "Per diem rate" means the per diem rate paid by the department for:

(a) Inpatient care in an in-state psychiatric or rehabilitation hospital;

(b)[,] Inpatient care in a long-term acute care hospital;

(c)[,] Inpatient care in a critical access hospital;

(d)[or] Psychiatric, substance use disorder, or rehabilitation services in an in-state acute care hospital which has a distinct part unit; or

(e) A psychiatric or rehabilitation service in an in-state acute care hospital with an assigned psychiatric, substance use disorder, or rehabilitation APR-DRG.

(43) "Policy adjusters" means the factor applied to increase payments for APR-DRG base payments for normal newborn, neonatal, and maternity services.

(44)[(45)] "Psychiatric hospital" means a hospital which meets the licensure requirements as established in 902 KAR 20:180.

(45)[(46)] "Quality improvement organization" or "QIO" means an organization that complies with 42 C.F.R. 475.101.

(46)[(47)] "Rebase" means to redetermine APR-DRG base rates, DRG relative weights, policy adjusters, corridor adjustments, per diem rates, and other applicable components of the payment methodology using more recent claims data and cost report data.

(47)[(48)] "Rehabilitation hospital" means a hospital meeting the licensure requirements as established in 902 KAR 20:240.

(48)[(49)] "Relative weight" means the factor assigned to each Medicare DRG classification that represents the average resources required for a Medicare DRG classification paid under the DRG methodology relative to the average resources required for all DRG

discharges in the state paid under the DRG methodology for the same time period.

(50) "Resident" means an individual living in Kentucky who is not receiving public assistance in another state.

(49)(51) "Rural hospital" means a hospital located in a rural area pursuant to 42 C.F.R. 412.64(b)(1)(ii)(C).

(50)(52) "State university teaching hospital" means:

(a) A hospital that is owned or operated by a Kentucky state-supported university with a medical school; or

(b) A hospital:

1. In which three (3) or more departments or major divisions of the University of Kentucky or University of Louisville medical school are physically located and which are used as the primary (greater than fifty (50) percent) medical teaching facility for the medical students at the University of Kentucky or the University of Louisville; and

2. That does not possess only a residency program or rotation agreement.

(51) "Statewide weighted average pay-to-cost ratio" means statewide total estimated payments in the universal rate year using trimmed base year claims divided by statewide total estimated costs in the universal rate year using trimmed base year claims data.

(52)(53) "Transfer payment" means a payment made for a recipient who is transferred to or from another hospital for a service reimbursed on a prospective discharge basis.

(53)(54) "Trending factor" means the cumulative percentage increase in the DRG or APR-DRG base rates that has occurred since the base year claims data period to inflation factor as applied to that period of time between the midpoint of the base year and the midpoint of the universal rate year.

(54) "Trimmed base year claims data" means base year claims data excluding:

(a) Claims data for a discharge reimbursed on a per diem basis including:

1. A psychiatric claim including:

a. An acute care hospital claim with a psychiatric or substance use disorder APR-DRG;

b. A psychiatric distinct part unit claim;

c. A psychiatric hospital claim including one (1) related to substance use disorder treatment; or

d. A claim not referenced in clause c of this subparagraph that is related to substance use disorder treatment;

2. A rehabilitation claim including:

a. An acute care hospital claim with a rehabilitation APR-DRG;

b. A rehabilitation distinct part unit claim; or

c. A rehabilitation hospital claim;

3. A critical access hospital claim; or

4. A long term acute care hospital claim;

(b) A claim for a patient discharged from an out-of-state hospital;

(c) A claim with total charges equal to zero (0);

(d) A managed care organization claim; or

(e) A claim for a hospital-based skilled nursing facility or long-term care unit.

(55) "Type III hospital" means an in-state disproportionate share state university teaching hospital, owned or operated by either the University of Kentucky or the University of Louisville Medical School.

(56) "Universal rate year" means the twelve (12) month period under the prospective payment system, beginning July of each year, for which a payment rate is established for a hospital regardless of the hospital's fiscal year end.

(57) "Urban hospital" means a hospital located in an urban area pursuant to 42 C.F.R. 412.64(b)(1)(ii).

(58) "Urban trauma center hospital" means an acute care hospital that:

(a) Is designated as a Level I Trauma Center by the American College of Surgeons;

(b) Has a Medicaid utilization rate greater than twenty-five (25) percent; and

(c) Has at least fifty (50) percent of its Medicaid population as residents of the county in which the hospital is located.

Section 2. Payment for an Inpatient Acute Care Service in an In-state Acute Care Hospital. (1) An in-state acute care hospital shall be paid for an inpatient acute care service, except for a service not covered pursuant to 907 KAR 10:012, on a fully-prospective per discharge basis.

(2) For an inpatient acute care service, except for a service not covered pursuant to 907 KAR 10:012, in an in-state acute care hospital, the total hospital-specific per discharge payment shall be the APR-DRG[sum of:

(a) A DRG base payment and, if applicable, a cost outlier;

(b) If applicable, a high volume per diem payment; and

(c) If applicable, a cost outlier payment amount multiplied by the provider-specific corridor adjustment.

(3)(a) In assigning an APR-[a]-DRG for a claim, the department shall exclude from the APR-DRG consideration any secondary diagnosis code associated with a never event.

(b)1. For rates effective April 1, 2014, the department shall assign an APR-[A]-DRG[assignment] for payment purposes[shall be] based on the 3M APR-DRG[Medicare] grouper version thirty (30).

2. Beginning on October 1, 2014, the department shall update the APR-DRG grouper version using the most current APR-DRG grouper version available and update it each subsequent October 1 using the most current APR-DRG grouper version available.

3. If, on a given October 1, a new version of the APR-DRG grouper is not available, the department shall not update the APR-DRG grouper version until a new version becomes available[twenty-four (24) effective in the Medicare inpatient prospective payment system as of October 1, 2006].

(c) The department shall assign to the base year claims data, DRG classifications from Medicare grouper version twenty-four (24) effective in the Medicare inpatient prospective payment system as of October 1, 2006].

(4) An APR-[A]-DRG base payment shall be calculated for a discharge by multiplying the statewide APR-DRG[hospital-specific] base rate by the APR-DRG relative weight and the applicable policy adjuster.

(5)(a) The department shall determine a single statewide APR-DRG base rate in a way that results in the estimated aggregated payments in the universal rate year using trimmed base year claims data not exceeding aggregated reported payments in the trimmed base year claims data adjusted by the trending factor.

(b)1. The department shall assign to the base year claims data, APR-DRG classifications from the same APR-DRG grouper version that shall be used for payment during the universal rate year.

2. For rates effective April 1, 2014, the base year claims data means claims data from state fiscal year 2010.

3. In rebasing, the department shall use the state fiscal year that includes the most recent fully adjudicated state fiscal year Medicaid fee-for-service claims data available at the time of the rate calculation.

(c) The department shall determine a statewide APR-DRG base rate using the trimmed base year claims data.

(d) In estimating payments in the universal rate year for the purpose of determining the statewide APR-DRG base rate, the department shall:

1. Include policy adjusters referenced in subsection (6) of this section; and

2. Exclude corridor adjustments referenced in subsection (10) of this section.

(6)(a) The department shall apply a single policy adjuster to an APR-DRG base payment for the following:

1. A claim with a newborn APR-DRG assignment in MDC 15; and

2. A claim with a maternity related APR-DRG assignment in MDC 14.

(b)1. The department shall determine the policy adjuster factor using trimmed base year claims data for newborn and maternity APR-DRGs in a manner that results in the following outcomes when applying the policy adjuster factor to APR-DRG base payments:

a. Estimated aggregated payments in the universal rate year

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excluding corridor adjustments for these claims exceed aggregated trimmed base year claims data reported payments, adjusted by the trending factor, by the smallest margin possible; and

b. The policy adjuster factor is incrementally rounded upwards to the nearest five (5)-hundredths.

2. An example of the provisions described in subparagraph 1. of this paragraph is if a policy adjuster factor of 1.418 results in estimated aggregated payments without corridor adjustments using trimmed base year claims data with newborn and maternity APR-DRGs that exceed aggregated base year claim reported payments adjusted by the trending factor by the smallest margin possible, the policy adjuster factor shall be rounded upwards to 1.45.

(c) In estimating payments in the universal rate year for the purpose of determining the APR-DRG base rate, the department shall:

1. Include policy adjusters referenced in subsection (6) of this section; and

2. Exclude corridor adjustments referenced in subsection (10) of this section.

(7)(a) [by calculating a case mix, outlier payment and budget neutrality-adjusted cost per discharge for each in-state acute care hospital as described in subsections (5)(b) through (10) of this section of this administrative regulation.

(b) A hospital-specific cost per discharge used to calculate a base rate shall be based on base year inpatient paid claims data.

(c) A hospital-specific cost per discharge shall be calculated using state fiscal year 2006 inpatient Medicaid paid claims data.

(6)(a) The department shall calculate a cost to charge ratio for the ~~seventeen (17)~~~~[fifteen (15)]~~ Medicaid and Medicare cost centers displayed in paragraph (b) of this subsection using Medicare cost reporting periods as established in Section 1(17) of this administrative regulation.

(b) If a hospital lacks cost-to-charge information for a given cost center or if the hospital's cost-to-charge ratio is not within~~[above or below]~~ three (3) standard deviations from the mean of the set~~[a log distribution]~~ of cost-to-charge ratios, the department shall use the statewide geometric mean cost-to-charge ratio for the given cost center.

Table 1. Kentucky Medicaid Cost Center to Medicare Cost Report Cost Center Crosswalk		
Kentucky Medicaid Center	Cost	Kentucky Medicaid Cost Center Description Medicare Cost Report Standard Cost Center (2552-96 format)
1		Routine Days 25
2		Intensive Days (non-neonatal) 26, 27, 28, 29, 30
3		Drugs 48, 56
4		Supplies or equipment 55, 66, 67
5		Therapy services excluding inhalation therapy 50, 51, 52
6		Inhalation therapy 49
7		Operating room 37, 38
8		Labor and delivery 39
9		Anesthesia 40
10		Cardiology 53, 54
11		Laboratory 44, 45
12		Radiology 41, 42
13		Other services 43, 46, 47, 57, 58, 59, 60, 61, 62, 63, 63.5, 64, 65, 68
14		Nursery 33
15		Neonatal intensive days Various [30]
16		Psychiatric Various
17		Rehabilitation Various

Table 2. Kentucky Medicaid Cost Center to Medicare Cost Report Cost Center Crosswalk		
Kentucky Medicaid Center	Cost	Kentucky Medicaid Cost Center Description Medicare Cost Report Standard Cost Center (2552-10 format)
1		Routine Days 30
2		Intensive Days (non-neonatal) 31, 32, 33, 34, 35
3		Drugs 64, 73
4		Supplies or equipment 71, 72, 96, 97
5		Therapy services excluding inhalation therapy 66, 67, 68
6		Inhalation therapy 65
7		Operating room 50, 51
8		Labor and delivery 52
9		Anesthesia 53
10		Cardiology 59, 69, 70
11		Laboratory 60, 61
12		Radiology 54, 55, 57
13		Other services 56, 58, 62, 63, 74, 75, 76, 88, 90, 91, 92, 93, 94, 95, 98
14		Nursery 43
15		Neonatal intensive days Various
16		Psychiatric Various
17		Rehabilitation Various

~~(8)(7)(a)~~ For a hospital with an intern or resident reported on its Medicare cost report, the department shall calculate allocated overhead by computing the difference between the costs of interns and residents before and after the allocation of overhead costs.

(b) The ratio of overhead costs for interns and residents to total facility costs shall be multiplied by the costs in each cost center prior to computing the cost center cost-to-charge ratio.

~~(8)~~ For an in-state acute care hospital, the department shall compile the number of patient discharges, patient days and total charges from the base year claims data. The department shall exclude from the rate calculation:

- ~~(a) Claims paid under a managed care program;~~
- ~~(b) Claims for rehabilitation and psychiatric discharges reimbursed on a per diem basis;~~
- ~~(c) Transplant claims; and~~
- ~~(d) Revenue codes not covered by the Medicaid Program.]~~

~~(9)(a)~~ The department shall calculate the cost of [a] base year claims data used in the determination of APR-DRG base rates[claim] by multiplying the charges from each inpatient hospital-related[accepted] revenue code by the corresponding cost center specific cost-to-charge ratio.

(b) The department shall inflate the cost of base year claims data to the universal rate year using an inflation factor based on changes in CMS IPPS hospital input price index levels[base cost center specific cost-to-charge ratios on data extracted from the most recently, as of June 1, finalized cost report].

~~(c)1.~~ [Only an] Inpatient revenue codes for services reimbursed[code recognized] by the department under the APR-DRG methodology shall be included in the calculation of estimated costs.

2. Any inpatient revenue code for a service not reimbursed by the department under the APR-DRG methodology shall not be included in the calculation of estimated costs.

~~(10)(a)~~ The department shall apply a provider-specific corridor adjustment to the sum of the APR-DRG base payment and the applicable outlier payment.

~~(b)1.~~ To determine corridor adjustment factors, the department shall establish a pay-to-cost ratio corridor based on the statewide weighted average pay-to-cost ratio using the same trimmed base year claims data used in the statewide APR-DRG base rate calculation.

2. The pay-to-cost ratio corridor ceiling shall be five (5) percent above the statewide weighted average pay-to-cost ratio subject to the increase or decrease in accordance with paragraph (c)4 of this subsection.

3. The pay-to-cost ratio corridor floor shall be five (5) percent below the statewide average weighted average pay-to-cost ratio.

(c) The department shall determine corridor adjustment factors based on each hospital's estimated pay-to-cost ratio before corridor adjustments relative to the pay-to-cost ratio corridor using the same trimmed base year claims data used in the statewide APR-DRG base rate calculation.

1. For a provider with a pay-to-cost ratio that is below the pay-to-cost ratio corridor floor, the provider-specific corridor adjustment factor shall be set to increase payments in a way that results in the pay-to-cost ratio equaling the corridor floor.

2. For a provider with a pay-to-cost ratio that is within the pay-to-cost ratio corridor, the provider-specific corridor adjustment factor shall be set to 1.0.

3. For a provider with a pay-to-cost ratio above the pay-to-cost ratio corridor ceiling, the provider-specific corridor adjustment factor shall be set to reduce payments in a way that results in the pay-to-cost ratio equaling the corridor ceiling.

4. The pay-to-cost ratio ceiling shall be increased or decreased until estimated aggregated payments with corridor adjusters in the universal rate year do not exceed trimmed base year claims data aggregated reported payments adjusted by the trending factor.

(d) Corridor adjustment factors shall:

- 1. Be determined on a prospective basis; and
- 2. Not be updated until the system is rebased.

~~(11)(a)~~ ~~(10)~~ Using the base year Medicaid claims referenced in subsection (8) of this section, the department shall compute a hospital specific cost per discharge by dividing a hospital's

Medicaid costs by its number of Medicaid discharges.

~~(11)~~ The department shall determine an in-state acute care hospital's DRG base payment rate by adjusting the hospital's specific Medicaid allowable cost per discharge by the hospital's case mix, expected outlier payments and budget neutrality.

~~(a)1.~~ A hospital's case mix adjusted cost per discharge shall be calculated by dividing the hospital's cost per discharge by its case mix index; and

2. The hospital's case mix index shall be equal to the average of its DRG relative weights for acute care services for base year Medicaid discharges referenced in subsection (8) of this section.

~~(b)1.~~ A hospital's case mix adjusted cost per discharge shall be multiplied by an initial budget neutrality factor.

2. The initial budget neutrality factor for a rate shall be 0.7065 for all hospitals.

~~3.~~ When rates are rebased, the initial budget neutrality factor shall be calculated so that total payments in the rate year shall be equal to total payments in the prior year plus inflation for the upcoming rate year and adjusted to eliminate changes in patient volume and case mix.

~~(c)1.~~ Each hospital's case mix and initial budget neutrality adjusted cost per discharge shall be multiplied by a hospital-specific outlier payment factor.

2. A hospital-specific outlier payment factor shall be the result of the following formula: ((expected DRG non-outlier payments) - (expected proposed DRG outlier payments))/((expected DRG non-outlier payments)).

~~(d)1.~~ A hospital's case mix, initial budget neutrality and outlier payment adjusted cost per discharge shall be multiplied by a secondary budget neutrality factor.

2. The secondary budget neutrality factor for a hospital shall be 1.0562.

~~3.~~ When rates are rebased, the secondary budget neutrality factor shall be calculated so that total payments in the rate year shall be equal to total payments in the prior year plus inflation for the upcoming rate year and adjusted to eliminate changes in patient volume and case mix.

~~(12)(a)~~ Except as provided in paragraph (b) of this subsection, the department shall make a high volume per diem payment, to an in-state acute care hospital with high Medicaid volume for base year covered Medicaid days referenced in subsection (8) of this section.

(b) High volume per diem criteria shall be based on the number of Kentucky Medicaid days or the hospital's Kentucky Medicaid utilization percentage.

(c)1. A high volume per diem payment shall be made in the form of a per diem add-on amount in addition to the DRG base payment rate encompassing the DRG average length-of-stay days per discharge.

2. The payment shall be equal to the applicable high volume per diem add-on amount multiplied by the DRG average length-of-stay associated with the claim's DRG classification.

(d)1. The department shall determine a per diem payment associated with Medicaid days-based criteria separately from a per diem payment associated with Medicaid utilization-based criteria.

2. If a hospital qualifies for a high volume per diem payment under both the Medicaid days-based criteria and the Medicaid utilization-based criteria, the department shall pay the higher of the two add-on per diem amounts.

(e) The department shall pay the indicated high volume per diem payment if either the base year covered Kentucky Medicaid inpatient days or Kentucky Medicaid inpatient day's utilization percent meet the criteria established in Table 2 below:

Table 2. High Volume Adjustment Eligibility Criteria			
Kentucky Medicaid Inpatient Days		Kentucky Medicaid Inpatient Days Utilization	
Days Range	Per Diem Payment	Medicaid Utilization Range	Per Diem Payment
0 – 3,499 days	\$0 per day	0.0% – 13.2%	\$0.00 per day
3,500 – 4,499 days	\$22.50 per day	13.3% – 16.1%	\$22.50 per day
4,500 – 5,999 days	\$45.00 per day	16.2% – 21.6%	\$45.00 per day
6,000 – 7,399 days	\$80.00 per day	21.7% – 27.2%	\$81.00 per day
7,400 – 10,999 days	\$118.15 per day	27.3% – 100.00%	\$92.75 per day
11,000 – 19,999 days	\$163.49 per day		
20,000 and above days	\$325.00 per day		

(f) The department shall use base year claims data referenced in subsection (8) of this section to determine if a hospital qualifies for a high volume per diem add-on payment.

(g) The department shall only change a hospital's classification regarding a high volume add-on payment or per diem amount during a rebasing year.

(h)1. The department shall not make a high volume per diem payment for a level I neonatal care, level II neonatal center, or level III neonatal center claim.

2. A level I neonatal care, level II neonatal center, or level III neonatal center claim shall be included in a hospital's high volume adjustment eligibility criteria calculation established in paragraph (e), Table 2, of this subsection.

(13)(a) The department shall make a[an additional] cost outlier payment for an approved discharge meeting the Medicaid criteria for a cost outlier for each APR-DRG[diagnostic category].

(b) A cost outlier shall be subject to QIO review and approval.

(c) A discharge shall qualify for a[an additional] cost outlier payment if its estimated cost exceeds the APR-DRG's outlier threshold.

(d)1. The department shall calculate the estimated cost of a discharge, for purposes of comparing the discharge cost to the outlier threshold, by multiplying the sum of the hospital specific Medicare operating and capital-related cost-to-charge ratios by the Medicaid allowed charges.

2. A[The] Medicare operating and/or capital-related cost-to-charge ratios[ratio] shall be extracted from the CMS IPPS Pricer Program with an effective date in the Medicare system as of October 1 of the year prior to the beginning of the universal rate year.

(e)1. The department shall calculate an outlier threshold as the sum of a hospital's APR-DRG base payment or transfer payment and the fixed loss cost threshold.

2. The fixed loss cost threshold shall equal \$29,000.

(f) A cost outlier payment shall equal eighty (80) percent of the amount by which estimated costs exceed a discharge's outlier threshold.

(g) An outlier threshold and cost outlier payment shall be calculated before applying a corridor adjustment.

(12)(a)[(14)] The department shall calculate APR-DRG[a Kentucky Medicaid-specific DRG] relative weights when the department[weight by]:

1. Calculates the statewide average APR-DRG base rate by:

a. [a)] Selecting the 3M APR-DRG national weights associated with the APR-DRG grouper version used for payment purposes; and

b. Dividing the 3M APR-DRG national weights for all APR-DRGs by a single case mix scaling factor in a manner that results in the statewide average case mix equaling 1.0 using trimmed base year claims data; or

2. Updating the APR-DRG grouper version, without rebasing statewide APR-DRG base rates, by:

a. Selecting the 3M APR-DRG national weights associated with the APR-DRG grouper version used for payment purposes; and

b. Dividing the 3M APR-DRG national weights for all APR-DRGs by a single factor in a manner that results in the statewide average case mix equaling the prior fiscal year's statewide average

case mix.

(b)1. The department shall apply a coding and documentation improvement adjustment to the APR-DRG relative weights.

2. To determine the adjustment referenced in subparagraph 1 of this paragraph, the department shall calculate a statewide average case mix index and a targeted statewide average case mix index.

3. To determine the initial statewide average case mix index, the department shall:

a. Assign APR-DRG classifications, using APR-DRG grouper version 30, to Medicaid fee-for-service DRG claims which covered the period of January 1, 2013 through December 31, 2013; and

b. Use the APR-DRG relative weights effective April 1, 2014.

4. The initial statewide average case mix index referenced in subparagraph 3 of this paragraph shall be the initial targeted statewide average case mix index.

5. To calculate the statewide average case mix index to be effective:

a. (i) July 1, 2015, the department shall use the actual paid DRG claims or actual APR-DRG claims for the prior twelve (12) month-period that ended December 31; or

(ii) For claims paid based on the DRG methodology, rather than the APR-DRG methodology, the department shall assign APR-DRG classifications using APR-DRG grouper version 30; and

b. Beginning July 1, 2016 and for each subsequent July 1, the department shall use the actual paid APR-DRG claims for the previous twelve (12) month period that ended December 31.

6. To calculate the targeted statewide average case mix index to be effective:

a. July 1, 2015, the department shall trend the initial targeted statewide average case mix index referenced in subparagraph 4 of this paragraph by 1.5 percent; and

b. Each July 1, beginning July 1, 2016, the department shall trend the prior July 1 targeted statewide average case mix index by 1.5 percent.

7.a. The department shall not apply a coding and documentation improvement adjustment to the APR-DRG relative weights for any year in which the percentage difference between the actual statewide average case mix index and the targeted statewide average case mix index is less than or equal to plus or minus two (2) percent.

b. If the percentage difference between the actual statewide average case mix index and the targeted statewide average case mix is greater than plus or minus two (2) percent, the department shall proportionally adjust the APR-DRG relative weights so that the actual statewide average case mix index is equal to the targeted statewide average case mix index.

(13)[Kentucky base year Medicaid inpatient paid claims, excluding those described in subsection (8) of this section, with the hospital-specific cost per discharge calculated using state fiscal year 2006 inpatient Medicaid paid claims data;

(b) Reassigning the DRG classification for the base year claims based on the Medicare DRG in effect in the Medicare inpatient prospective payment system at the time of rebasing. The department shall assign to the base year claims data the Medicare grouper version 24 DRG classifications which were effective in the Medicare inpatient prospective payment system as of October 1,

2006;

(c) Removing the following claims from the calculation:

1. Claims data for a discharge reimbursed on a per diem basis including:

a. A psychiatric claim, defined as follows:

(i) An acute care hospital claim with a psychiatric DRG;

(ii) A psychiatric distinct part unit claim; or

(iii) A psychiatric hospital claim;

b. A rehabilitation claim, defined as follows:

(i) An acute care hospital claim with rehabilitation DRG;

(ii) A rehabilitation distinct part unit claim; or

(iii) A rehabilitation hospital claim;

c. A critical access hospital claim; and

d. A long term acute care hospital claim;

2. A transplant service claim as specified in subsection (21) of this section;

3. A claim for a patient discharged from an out-of-state hospital; and

4. A claim with total charges equal to zero;

(d) Calculating a relative weight value for a low volume DRG by:

1.a. Arraying a DRG with less than twenty-five (25) cases in order by the Medicare DRG relative weight in effect in the Medicare inpatient prospective payment system at the same time as the Medicare DRG grouper version, published in the Federal Register, relied upon for Kentucky DRG classifications; and

b. Using the Medicare DRG relative weight which was effective in the Medicare inpatient prospective payment system as of October 1, 2006;

2. Grouping a low volume DRG, based on the Medicare DRG relative weight sort, into one (1) of five (5) categories resulting in each category having approximately the same number of Medicaid cases;

3. Calculating a DRG relative weight for each category; and

4. Assigning the relative weight calculated for a category to each DRG included in the category;

(e) 1. Standardizing the labor portion of the cost of a claim for differences in wage and the full cost of a claim for differences in indirect medical education costs across hospitals based on base year Medicare rate components;

a. Base year Medicare rate components shall equal Medicare rate components effective in the Medicare inpatient prospective payment system as of October 1, 2005; and

b. Base year Medicare rate components used in the Kentucky inpatient prospective payment system shall include:

(i) Labor-related percentage and non-labor-related percentage;

(ii) Operating and capital cost-to-charge ratios;

(iii) Operating indirect medical education costs; or

(iv) Wage indices;

2. Standardizing costs using the following formula: standard cost = (((labor related percentage X costs)/Medicare wage index) + (nonlabor related percentage X costs))/(1 + Medicare operating indirect medical education factor); with:

a. The labor related percentage equal to sixty-two (62) percent; and

b. The nonlabor related percentage equal to thirty-eight (38) percent;

(f) Removing statistical outliers by deleting any case that is:

1. Above or below three (3) standard deviations from the mean cost per discharge; and

2. Above or below three (3) standard deviations from the mean cost per day;

(g) Computing an average standardized cost for all DRGs in aggregate and for each DRG, excluding statistical outliers;

(h) Computing DRG relative weights:

1. For a DRG with twenty-five (25) claims or more by dividing the average cost per discharge for each DRG by the statewide average cost per discharge; and

2. For a DRG with less than twenty-five (25) claims by dividing the average cost per discharge for each of the five (5) low volume DRG categories by the statewide average cost per discharge;

(i) Calculating, for the purpose of a transfer payment, Kentucky Medicaid geometric mean length of stay for each DRG based on

the base year claims data used to calculate DRG relative weights;

(j) Employing enhanced neonatal care relative weights;

(k) Applying an adjustment factor to relative weights not referenced in paragraph (j) of this subsection to offset the level I, II, and III neonatal care relative weight increase resulting from the use of enhanced neonatal care relative weights; and

(l) Excluding high intensity level II neonatal center claims and low intensity level III neonatal center claims from the neonatal care relative weight calculations.

(15)] The department shall:

(a)] separately reimburse for a mother's stay and a newborn's stay based on the diagnostic category assigned to the mother's stay and to the newborn's stay.

(14)]; and

(b) Establish a unique set of diagnostic categories and relative weights for an in-state acute care hospital identified by the department as providing level I neonatal care, level II neonatal center care, or level III neonatal center care as follows:

1. The department shall exclude high intensity level II neonatal center claims and low intensity level III neonatal center claims from the neonatal center relative weight calculations;

2. The department shall reassign a claim that would have been assigned to a Medicare DRG 385-390 to a Kentucky-specific:

a. DRG 675-680 for an in-state acute care hospital with a level II neonatal center; or

b. DRG 685-690 for an in-state acute care hospital with a level III neonatal center;

3. The department shall assign a DRG 385-390 for a neonatal claim from a hospital which does not operate a level II or III neonatal center; and

4.a. The department shall compute a separate relative weight for a level II, or III neonatal intensity care unit (NICU) neonatal DRG;

b. The department shall use base year claims from level II neonatal centers, excluding claims from any high intensity level II neonatal center, to calculate relative weights for DRGs 675-680; and

c. The department shall use base year claims from level III neonatal centers to calculate relative weights for DRGs 685-690.

(16) The department shall:

(a) Expend in aggregate by category (level I neonatal care, level II or III neonatal center care) and not by individual facilities:

1. A total expenditure for level I neonatal care projected to equal 100 percent of Medicaid allowable cost for the universal rate year;

2. A total expenditure for level II neonatal center care projected to equal 100 percent of Medicaid allowable cost for the universal rate year; or

3. A total expenditure for level III neonatal center care projected to equal 100 percent of Medicaid allowable cost for the universal rate year;

(b) Adjust neonatal care DRG relative weights to result in:

1. Total expenditures for level I neonatal care projected to equal 100 percent of Medicaid allowable cost for the universal rate year;

2. Total expenditures for level II neonatal center care projected to equal 100 percent of Medicaid allowable cost for the universal rate year; or

3. Total expenditures for level III neonatal center care projected to equal 100 percent of Medicaid allowable cost for the universal rate year; and

(c) Not cost settle reimbursement referenced in this subsection.

(17) The department shall reimburse an individual:

(a) Hospital which does not operate a level II or III neonatal center, for level I neonatal care at the statewide average Medicaid allowable cost per each level I DRG;

(b) Level II neonatal center for level II neonatal care at the average Medicaid allowable cost per DRG of all level II neonatal centers; or

(c) Level III neonatal center for level III neonatal care at the average Medicaid allowable cost per DRG of all level III neonatal centers.

(18)] If a patient is transferred to or from another hospital, the department shall make a transfer payment to the transferring hospital if the initial admission and the transfer are determined to be medically necessary.

(a) For a service reimbursed on a prospective discharge basis, the department shall calculate the transfer payment amount based on the average daily rate of the transferring hospital's payment for each covered day the patient remains in that hospital, plus one (1) day, up to 100 percent of the allowable per discharge reimbursement amount.

1. The department shall calculate an average daily rate by dividing the APR-DRG base payment, excluding any outlier payments and corridor adjustment factor, by the APR-DRG average [statewide Medicaid geometric mean] length-of-stay [for a patient's DRG classification].

2. ~~[If a hospital qualifies for a high volume per diem add-on payment in accordance with subsection (2) of this section, the department shall pay the hospital the applicable per diem add-on for the DRG average length-of-stay.]~~

3.] Total reimbursement to the transferring hospital shall be the sum of the transfer payment amount and, if applicable, a [high volume per diem add-on amount and a] cost outlier payment amount, multiplied by the provider-specific corridor adjustment factor.

(b) For a hospital receiving a transferred patient, the department shall reimburse the total hospital-specific per discharge payment referenced in Section 2(2) of this administrative regulation.

(15) The department shall calculate an APR-DRG average length of stay by:

(a) Using the 3M national APR-DRG arithmetic mean lengths of stay associated with the APR-DRG grouper version used for payment purposes; and

(b) Multiplying the 3M national APR-DRG arithmetic mean lengths of stay for all APR-DRGs by a single day's adjustment factor in a manner that results in the sum of APR-DRG arithmetic mean lengths equaling the covered days in the trimmed base year claims data.

(16)(a) [DRG base payment, and, if applicable, a high volume per diem add-on amount and a cost outlier payment amount.]

(19)] The department shall pay to the transferring hospital for [treat] a transfer from an acute care hospital to a qualifying postacute care facility the transfer payment amount referenced in subsection (14) of this section [for selected DRGs in accordance with paragraph (b) of this subsection as a postacute care transfer].

(b) [(a)] The following shall qualify as a postacute care setting:

1. A psychiatric, rehabilitation, children's, long-term, or cancer hospital;
2. A skilled nursing facility; or
3. A home health agency.

(17) [(b)] A DRG-eligible for a postacute care transfer payment shall be in accordance with 42 U.S.C. 1395ww(d)(4)(C)(i).

(c) ~~The department shall pay each transferring hospital an average daily rate for each day of stay.~~

1. ~~A payment shall not exceed the full DRG payment that would have been made if the patient had been discharged without being transferred.~~

2. ~~A DRG identified by CMS as being eligible for special payment shall receive fifty (50) percent of the full DRG payment plus the average daily rate for the first day of the stay and fifty (50) percent of the average daily rate for the remaining days of the stay, up to the full DRG base payment.~~

3. ~~A DRG that is referenced in paragraph (b) of this subsection and not referenced in subparagraph 2 of this paragraph shall receive twice the per diem rate the first day and the per diem rate for each following day of the stay prior to the transfer.~~

(d) ~~The per diem amount shall be the base DRG payment allowed divided by the statewide Medicaid geometric mean length of stay for a patient's DRG classification.~~

(20)] The department shall reimburse for an intrahospital transfer to or from an acute care bed to or from a rehabilitation or psychiatric distinct part unit:

- (a) The full APR-DRG base payment allowed; and

(b) The facility-specific distinct part unit per diem rate, in accordance with 907 KAR 10:815[1:845], for each day the patient remains in the distinct part unit.

(18) [(21)(a)] The department shall reimburse for an organ [a kidney, cornea, pancreas, or kidney and pancreas] transplant on a prospective per discharge method according to the recipient's APR [patient's] DRG classification.

~~[(b)] A transplant not referenced in paragraph (a) of this subsection shall be reimbursed in accordance with 907 KAR 1:350.~~

(22) ~~The department shall adjust the non-neonatal care DRGs to result in the aggregate universal rate year reimbursement for all services (non-neonatal and neonatal) to equal the aggregate base year reimbursement for all services (non-neonatal and neonatal) inflated by the trending factor.]~~

Section 3. Never Events. (1) For each diagnosis on a claim, a hospital shall specify on the claim whether the diagnosis was present upon the individual's admission to the hospital.

(2) In assigning an APR [a] DRG for a claim, the department shall exclude from the APR-DRG consideration any secondary diagnosis code associated with a hospital-acquired condition.

(3) A hospital shall not seek payment for treatment for or related to a never event through:

- (a) A recipient;
- (b) The Cabinet for Health and Family Services for a child in the custody of the cabinet; or
- (c) The Department for Juvenile Justice for a child in the custody of the Department for Juvenile Justice.

(4) A recipient, the Cabinet for Health and Family Services, or the Department for Juvenile Justice shall not be liable for treatment for or related to a never event.

(5) The department's treatment of never events shall not affect the calculation of APR-DRG base rates or relative weights:

- (a) Previously implemented by the department; or
- (b) As described in Section 2 of this administrative regulation.

Section 4. Preadmission Services for an Inpatient Acute Care Service. A preadmission service provided within three (3) calendar days immediately preceding an inpatient admission reimbursable under the prospective per discharge reimbursement methodology shall:

(1) Be included with the related inpatient billing and shall not be billed separately as an outpatient service; and

(2) Exclude a service furnished by a home health agency, a skilled nursing facility or hospice, unless it is a diagnostic service related to an inpatient admission or an outpatient maintenance dialysis service.

Section 5. Direct Graduate Medical Education Costs at In-state Hospitals with Medicare-approved Graduate Medical Education Programs. (1) If federal financial participation for direct graduate medical education costs is not provided to the department, pursuant to federal regulation or law, the department shall not reimburse for direct graduate medical education costs.

(2) If federal financial participation for direct graduate medical education costs is provided to the department, the department shall reimburse for the direct costs of a graduate medical education program approved by Medicare as follows:

(a) A payment shall be made:

1. Separately from the per discharge ~~[and per diem] payment methodology [methodologies]; and~~

2. On an annual basis; and

(b) The department shall determine an annual payment amount for a hospital as established in this paragraph [follows:]

1. The hospital-specific and national average Medicare per intern and resident amount effective for Medicare payments on October 1 immediately preceding the universal rate year shall be provided by each approved hospital's Medicare fiscal intermediary ~~[:]~~

2. The higher of the average of the Medicare hospital-specific per intern and resident amount or the Medicare national average amount shall be selected ~~[:]~~

3. The selected per intern and resident amount shall be

multiplied by the hospital's number of interns and residents used in the calculation of the indirect medical education operating adjustment factor. The resulting amount shall be the estimated total approved direct graduate medical education costs.[:]

4. The estimated total approved direct graduate medical education costs shall be divided by the number of total inpatient days as reported in the hospital's Medicare[most recently finalized] cost report with a reporting period ending during the state fiscal year for which annual graduate medical education payment calculations are performed[on Worksheet D, Part 1], to determine an average approved graduate medical education cost per day amount.[:]

5. The average graduate medical education cost per day amount shall be multiplied by the number of Medicaid fee-for-service[total] covered days for the hospital, excluding claims reimbursed on a per diem rate methodology, as reported by the Medicaid Management Information System in the state fiscal year for which graduate medical education payment calculations are performed[base year claims data] to determine the total graduate medical education costs related to the Medicaid Program.[: and]

6. Medicaid Program graduate medical education costs shall then be multiplied by the statewide average pay-to-cost ratio calculated using base year claims data referenced in Section 2(10) of this administrative regulation[budget neutrality factor].

Section 6. Aggregate Target Payments[Budget Neutrality Factors]. (1)(a) When rates are rebased, estimated projected reimbursement in the universal rate year using trimmed base year claims data shall not exceed reported payments[for the same services] in the trimmed base[prior] year claims data adjusted by the trending factor.

(b) The trending factor shall be based on the cumulative APR-DRG or DRG base rates that have occurred since the base year period to the universal rate year[for inflation-based on changes in the Price Index Levels in the CMS IPPS Hospital Input Price Index].

(2) The estimated total payments for each facility under the reimbursement methodology in effect during the base year claims data period[in the year prior to the universal] rate year shall be based on[estimated from] base year claims data reported payments adjusted by the trending factor.

(3) The estimated total payments for each facility under the reimbursement methodology in effect in the universal rate year shall be estimated from trimmed base year claims data.

(4) When rebasing, the single statewide APR-DRG base rate shall be set in a way that results in estimated payments in the universal rate year using trimmed base year claims data not exceeding reported payments in the trimmed base year claims data adjusted by the trending factor[If the sum of all the acute care hospitals' estimated payments under the methodology used in the universal rate year exceeds the sum of all the acute care hospitals' adjusted estimated payments under the prior year's reimbursement methodology, each hospital's DRG base rate and per diem rate shall be multiplied by a uniform percentage to result in estimated total payments for the universal rate year being equal to total adjusted payments in the year prior to the universal rate year].

Section 7. Reimbursement Updating Procedures. (1) For rate years between rebasing periods, the department shall annually, on July 1, update the APR-DRG[hospital-specific] base rates for inflation based on changes in the [Price Index Levels in the] CMS IPPS Hospital Input Price Index levels from the midpoint of the previous rate year to the midpoint of the universal rate year.

(2) The department shall annually, on July 1, update the hospital-specific outlier cost-to-charge ratios using the sum of the Medicare operating and capital outlier-related cost-to-charge ratios extracted from the CMS IPPS Pricer Program with an effective date in the Medicare system as of October 1 of the year prior to the beginning of the universal rate year.

(3)(a) The APR-DRG grouper version shall be updated each October 1 in accordance with Section 2(3)(b) of this administrative regulation.

(b) The department shall also update the APR-DRG grouper

version using the most current APR-DRG version available at the time the department rebases the APR-DRG base rates.

(c) When updating the APR-DRG grouper version, the department shall calculate new APR-DRG relative weights in accordance with Section 2(12) of this administrative regulation.

(4) Except for an appeal in accordance with Section 20[24] of this administrative regulation, the department shall make no other adjustment.

(5)[(3)] The department shall rebase APR-DRG reimbursement rates at least once every four (4) years[on July 1, 2012 and every fourth year after that].

Section 8. Use of a Universal Rate Year. (1) A universal rate year shall be established as July 1 through June 30 of the following year to coincide with the state fiscal year.

(2) A hospital shall not be required to change its fiscal year to conform with a universal rate year.

Section 9. Cost Reporting Requirements. (1)(a) An in-state hospital participating in the Medicaid Program shall submit to the department, in accordance with the requirements in this section:

1. A copy of each Medicare cost report it submits to CMS;

2.[:] An electronic cost report file (ECR);

3.[:] The Supplemental Medicaid Schedule KMAP-1;

4.[and] The Supplemental Medicaid Schedule KMAP-4; and

5. The Supplemental Medicaid Schedule KMAP-6[as required by this subsection].

(b)[(a)] A document listed in paragraph (a) of this subsection[cost report] shall be submitted:

1. For the fiscal year used by the hospital; and

2. Within five (5) months after the close of the hospital's fiscal year.

(c)[(b)] Except as provided in subparagraph 1 or 2 of this paragraph, the department shall not grant a cost report submittal extension.

1. If an extension has been granted by Medicare, the cost report shall be submitted simultaneously with the submittal of the Medicare cost report; or

2. If a catastrophic circumstance exists, for example flood, fire, or other equivalent occurrence, the department shall grant a thirty (30) day extension.

(2) If a cost report submittal date lapses and no extension has been granted, the department shall immediately suspend all payment to the hospital until a complete cost report is received.

(3) A cost report submitted by a hospital to the department shall be subject to audit and review.

(4) An in-state hospital shall submit to the department a final Medicare-audited cost report upon completion by the Medicare intermediary along with an electronic cost report file (ECR).

Section 10. Unallowable Costs. (1) The following shall not be allowable cost for Medicaid reimbursement:

(a) A cost associated with a political contribution;

(b) A cost associated with a legal fee for an unsuccessful lawsuit against the Cabinet for Health and Family Services. A legal fee relating to a lawsuit against the Cabinet for Health and Family Services shall only be included as a reimbursable cost in the period in which the suit is settled after a final decision has been made that the lawsuit is successful or if otherwise agreed to by the parties involved or ordered by the court; and

(c) A cost for travel and associated expenses outside the Commonwealth of Kentucky for the purpose of a convention, meeting, assembly, conference, or a related activity, subject to the limitations of subparagraphs 1 and 2 of this paragraph.

1. A cost for a training or educational purpose outside the Commonwealth of Kentucky shall be allowable.

2. If a meeting is not solely educational, the cost, excluding transportation, shall be allowable if an educational or training component is included.

(2) A hospital shall identify an unallowable cost on a Supplemental Medicaid Schedule KMAP-1.

(3) A Supplemental Medicaid Schedule KMAP-1 shall be completed and submitted to the department with an annual cost

report.

~~Section 11.[Trending of a Cost Report for DRG Re-basing Purposes. (1) An allowable Medicaid cost, excluding a capital cost, as shown in a cost report on file in the department, either audited or unaudited, shall be trended to the beginning of the universal rate year to update a hospital's Medicaid cost.~~

~~(2) The department shall trend for inflation based on changes in the Price Index Levels in the CMS IPPS Hospital Input Price Index.~~

~~Section 12. Indexing for Inflation. (1) After an allowable Medicaid cost has been trended to the beginning of a universal rate year, an indexing factor shall be applied to project inflationary cost in the universal rate year.~~

~~(2) The department shall trend for inflation based on changes in the Price Index Levels in the CMS IPPS Hospital Input Price Index.~~

~~Section 13.] Readmission. (1) An inpatient admission within fourteen (14) calendar days of discharge for the same diagnosis shall be considered a readmission and reviewed by the QIO.~~

~~(2) Reimbursement for a readmission with the same diagnosis shall be included in an initial admission payment and shall not be billed separately.~~

~~Section 12.[14.] Reimbursement for Out-of-state Hospitals. (1) The department shall reimburse an acute care out-of-state hospital, except for a children's hospital located in a Metropolitan Statistical Area as defined by the United States Office of Management and Budget whose boundaries overlap Kentucky and a bordering state, and except for Vanderbilt Medical Center, for inpatient care:~~

~~(a) On a fully-prospective per discharge basis based on the patient's diagnostic category; and~~

~~(b) An all-inclusive rate.~~

~~(2) The all-inclusive rate referenced in subsection (1)(b) of this section shall:~~

~~(a) Equal eighty (80) percent of the in-state APR-DRG[facility-specific Medicare] base rate referenced in Section 2(5) of this administrative regulation multiplied by the APR-DRG relative weight referenced in Section 2(12) of this administrative regulation, reduced in accordance with paragraph (b) of this subsection]:~~

~~1. 0.7065; and~~

~~2. The Kentucky-specific DRG relative weights after the relative weights have been reduced by twenty (20) percent];~~

~~(b) Exclude:~~

~~1. Medicare indirect medical education cost or reimbursement;~~

~~2. Policy adjusters[High volume per diem add-on reimbursement];~~

~~3. Corridor adjustments[Disproportionate share hospital distributions]; and~~

~~4. Any adjustment mandated for in-state hospitals pursuant to KRS 205.638; and~~

~~(c) Include a cost outlier payment if the associated discharge meets the cost outlier criteria established in Section 2(11)[(13)] of this administrative regulation.~~

~~1. The department shall determine the cost outlier threshold for an out-of-state claim using the same method used to determine the cost outlier threshold for an in-state claim.~~

~~2. The department shall calculate the estimated cost of each discharge, for purposes of comparing the estimated cost of each discharge to the outlier threshold, by multiplying the sum of the Medicare statewide average[hospital-specific] operating and capital[capital-related mean] cost-to-charge ratios by the discharge-allowed charges.~~

~~3. The department shall use the average of the urban and rural Medicare statewide average operating and capital-related cost-to-charge ratios for Kentucky published in the Federal Register for outlier payment calculations as of October 1 of the year immediately preceding the start of the universal rate year[; and]~~

~~4. The outlier payment amount shall equal eighty (80) percent of the amount which estimated costs exceed the discharge's outlier threshold.~~

~~5. A cost outlier shall be subject to quality improvement~~

organization review and approval.

~~(3) The department shall reimburse for inpatient acute care provided by an out-of-state children's hospital located in a Metropolitan Statistical Area as defined by the United States Office of Management and Budget and whose boundaries overlap Kentucky and a bordering state, and except for Vanderbilt Medical Center, an all-inclusive rate equal to the average all-inclusive APR-DRG base rate paid to in-state children's hospitals.~~

~~(4) The department shall reimburse for inpatient care provided by Vanderbilt Medical Center;~~

~~(a) Using[at] the hospital-specific Medicare base rate extracted from the CMS IPPS Pricer Program in effect at the time that the care was provided[, multiplied by eighty-five (85) percent].~~

~~(b) For an outlier, using the hospital-specific Medicare operating and capital-related cost-to-charge ratio, extracted from the CMS IPPS Pricer Program in effect at the time that the care was provided[, multiplied by eighty-five (85) percent]. For example, if care was provided on September 13, 2014[2008], the cost-to-charge ratio used shall be the cost-to-charge ratio extracted from the CMS IPPS Pricer Program in effect on September 13, 2014[2008].~~

~~(5) An out-of-state provider shall not be eligible to receive[high volume per diem add-on payments;] indirect medical education reimbursement or disproportionate share hospital payments.~~

~~Section 13.[(5) The department shall make a cost outlier payment for an approved discharge meeting Medicaid criteria for a cost outlier for each Medicare DRG. A cost outlier shall be subject to Quality Improvement Organization review and approval.~~

~~(a) The department shall determine the cost outlier threshold for an out-of-state claim using the same method used to determine the cost outlier threshold for an in-state claim.~~

~~(b) The department shall calculate the estimated cost of each discharge, for purposes of comparing the estimated cost of each discharge to the outlier threshold, by multiplying the sum of the hospital-specific operating and capital-related mean cost-to-charge ratios by the discharge-allowed charges.~~

~~(c) The department shall use the Medicare operating and capital-related cost-to-charge ratios published in the Federal Register for outlier payment calculations as of October 1 of the year immediately preceding the start of the universal rate year.~~

~~(d) The outlier payment amount shall equal eighty (80) percent of the amount which estimated costs exceed the discharge's outlier threshold.~~

~~Section 15.] Supplemental Payments. (1) Payment of a supplemental payment established in this section shall be contingent upon the department's receipt of corresponding federal financial participation.~~

~~(2) If federal financial participation is not provided to the department for a supplemental payment, the department shall not make the supplemental payment.~~

~~(3) In accordance with subsections (1) and (2) of this section, the department shall:~~

~~(a) In addition to a payment based on a rate developed under Section 2 of this administrative regulation, make quarterly supplemental payments to:~~

~~1. A hospital that qualifies as a nonstate pediatric teaching hospital in an amount:~~

~~a. Equal to the sum of the hospital's Medicaid shortfall for Medicaid fee-for-service recipients under the age of eighteen (18) plus an additional \$250,000 (\$1,000,000 annually); and~~

~~b. Prospectively determined by the department with an end of the year settlement based on actual patient days of Medicaid fee-for-service recipients under the age of eighteen (18);~~

~~2. A hospital that qualifies as a pediatric teaching hospital and additionally meets the criteria of a Type III hospital in an amount:~~

~~a. Equal to the difference between payments made in accordance with Sections 2, 4, and 5 of this administrative regulation and the amount allowable under 42 C.F.R. 447.272, not to exceed the payment limit as specified in 42 C.F.R. 447.271;~~

~~b. That is prospectively determined subject to a year-end reconciliation[with no end-of-the-year settlement]; and~~

~~c. Based on the state matching contribution made available for~~

this purpose by a facility that qualifies under this paragraph; and
3. A hospital that qualifies as an urban trauma center hospital in an amount:

a. Based on the state matching contribution made available for this purpose by a government entity on behalf of a facility that qualifies under this paragraph;

b. Based upon a hospital's proportion of Medicaid patient days to total Medicaid patient days for all hospitals that qualify under this paragraph;

c. That is prospectively determined with an end of the year settlement; and

d. That is consistent with the requirements of 42 C.F.R. 447.271;

(b) Make quarterly supplemental payments to the Appalachian Regional Hospital system:

1. In an amount that is equal to the lesser of:

a. The difference between what the department pays for inpatient services pursuant to Sections 2, 4, and 5 of this administrative regulation and what Medicare would pay for inpatient services to Medicaid eligible individuals; or

b. \$7.5 million per year in aggregate;

2. For a service provided on or after July 1, 2005; and

3. Subject to the availability of coal severance funds, in addition to being subject to the availability of federal financial participation, which supply the state's share to be matched with federal funds; and

(c) Base a quarterly payment to a hospital in the Appalachian Regional Hospital System on its Medicaid claim volume in comparison to the Medicaid claim volume of each hospital within the Appalachian Regional Hospital System[-; and

(d) ~~Make a supplemental payment to an in-state high intensity level II neonatal center of \$2,870 per paid discharge for a DRG-675 – 680].~~

(4) An overpayment made to a facility under this section shall be recovered by subtracting the overpayment amount from a succeeding year's payment to be made to the facility.

(5) For the purpose of this section, Medicaid patient days shall not include enrollee days[~~for a Medicaid recipient eligible to participate in the state's Section 1115 waiver as described in 907 KAR 1:705].~~

(6) A payment made under this section shall not duplicate a payment made via 907 KAR 10:820[1:820].

(7) A payment made in accordance with this section shall be in compliance with the limitations established in 42 C.F.R. 447.272.

Section 14.[46:] Certified Public Expenditures. (1)(a) The department shall reimburse an in-state public government-owned or operated hospital the full cost of a Medicaid fee-for-service[an] inpatient service via a certified public expenditure (CPE) contingent upon approval by the Centers for Medicare and Medicaid Services (CMS).

(b) A payment referenced in paragraph (a) of this subsection shall be limited to the federal match portion of the hospital's uncompensated care cost for inpatient Medicaid fee-for-service recipients.

(2) To determine the amount of costs eligible for a CPE, a hospital's allowed charges shall be multiplied by the hospital's operating cost-to-total charges ratio.

(3) The department shall verify whether or not a given CPE is allowable as a Medicaid cost.

(4)(a) Subsequent to a cost report being submitted to the department and finalized, a CPE shall be reconciled with the actual costs reported to determine the actual CPE for the period.

(b) If any difference between actual cost and submitted costs remains, the department shall reconcile any difference with the provider.

Section 15.[47:] Access to Subcontractor's Records. If a hospital has a contract with a subcontractor for services costing or valued at \$10,000 or more over a twelve (12) month period:

(1) The contract shall contain a provision granting the department access:

(a) To the subcontractor's financial information; and

(b) In accordance with 907 KAR 1:672; and

(2) Access shall be granted to the department for a subcontract between the subcontractor and an organization related to the subcontractor.

Section 16.[48:] New Provider, Change of Ownership, or Merged Facility. (1) The department shall reimburse a new acute care hospital based on the APR-DRG methodology with no corridor adjustment factor.

(2) If a hospital undergoes a change of ownership, the new owner shall continue to be reimbursed at the rate in effect at the time of the change of ownership.

[(2)(a) Until a fiscal year end cost report is available, a newly constructed or newly participating hospital shall submit an operating budget and projected number of patient days within thirty (30) days of receiving Medicaid certification.

(b) ~~During the projected rate year, the budget shall be adjusted if indicated and justified by the submittal of additional information.]~~

(3) If two (2) or more separate entities merge into one (1) organization, the department shall:

(a) Merge the latest available data used for rate setting;

(b) Combine bed utilization statistics, creating a new occupancy ratio;

(c) Combine costs using the trending and indexing figures applicable to each entity in order to arrive at correctly trended and indexed costs;

(d) If one (1) of the facilities merging has disproportionate share hospital status and the other does not, retain for the merged facility the status of the facility which reported the highest number of Medicaid days paid[Compute on a weighted average the rate of increase control applicable to each entity, based on the reported paid Medicaid days for each entity taken from the cost report previously used for rate setting]; and

(e) Require each provider to submit a cost report for the period:

1. Ended as of the day before the merger within five (5) months of the end of the hospital's fiscal year end; and

2. Starting with the day of the merger and ending on the fiscal year end of the merged entity in accordance with Section 9 of this administrative regulation.

(4) In the merger of two (2) APR-DRG facilities, the corridor adjustment factor of the purchasing facility shall apply to the merged facility.

(5) In the merger of a per diem facility and an APR-DRG facility, the merged facility shall receive reimbursement based on the APR-DRG methodology.

Section 17.[49:] Federal Financial Participation. A provision established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

(1) Denies federal financial participation for the provision; or

(2) Disapproves the provision.

Section 18.[20:] Department reimbursement for inpatient hospital care shall not exceed the upper payment limit established in 42 C.F.R. 447.271 or 447.272.

Section 19. Not Applicable to Managed Care Organizations. A managed care organization shall not be required to reimburse the same amount as established in this administrative regulation for a service or item covered pursuant to 907 KAR 10:012 and this administrative regulation.

Section 20. Matters Subject to an Appeal.[21. Appeals. (1)] An administrative review shall not be available regarding[for the following]:

(a) 1. The methodologies used in determining the:

a. Statewide APR-DRG base rate;

b. Policy adjusters;

c. Corridor adjustment factors; or

d. Cost outlier;

(b) The[A] determination of the requirement, or the proportional amount, of an aggregate target payment[a budget neutrality] adjustment in the prospective payment rate;

(c)[or (b)] The establishment of:

1. DRGs including APR-DRGs[Diagnostic related groups];
2. The methodology for the classification of an inpatient discharge within an APR-[a-]DRG; or
3. An appropriate weighting factor which reflects the relative hospital resources used with respect to a discharge within an APR-DRG; or

(d) Any differences noted in the calculations of, or data not matching the actual source documents used to calculate the, APR-DRG relative weights; statewide APR-DRG base rate; policy adjusters; or corridor adjustment factors that would result in either a one (1) percent or less change in the statewide APR-DRG base rate or a one (1) and a half percent change in the statewide pay-to-cost ratio[a-DRG-.

(2) An appeal shall comply with the review and appeal provisions established in 907 KAR 1:671].

Section 21. Appeal Process. (1) An appeal shall comply with the requirements and provisions established in this section of this administrative regulation.

(2)(a) A request for a review of an appealable issue shall be received by the department within sixty (60) calendar days of the date of receipt by the provider of the department's notice of rates set under this administrative regulation.

(b) The request referenced in paragraph (a) of this subsection shall:

1. Be sent to the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, 275 East Main Street, 6th Floor, Frankfort, Kentucky 40621-0002; and
2. Contain the specific issues to be reviewed with all supporting documentation necessary for the departmental review.

(3)(a) The department shall review the material referenced in subsection (2) of this section and notify the provider of the review results within thirty (30) days of its receipt except as established in paragraph (b) of this subsection.

(b) If the provider requests a review of a non-appealable issue under this administrative regulation, the department shall:

1. Not review the request; and
2. Notify the provider that the review is outside of the scope of this section.

(4)(a) A provider may appeal the result of the department's review, except for a notification that the review is outside the scope of this section, by sending a request for an administrative hearing to the Division for Administrative Hearings (DAH) within thirty (30) days of receipt of the department's notification of its review decision.

(b) A provider shall not appeal a notification that a review is outside of the scope of this section.

(5)(a) An administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(b) Pursuant to KRS 13B.030, the secretary of the Cabinet for Health and Family Services delegates to the Cabinet for Health and Family Services, Division for Administrative Hearings (DAH) the authority to conduct administrative hearings under this administrative regulation.

(c) A notice of the administrative hearing shall comply with KRS 13B.050.

(d) The administrative hearing shall be held in Frankfort, Kentucky no later than ninety (90) calendar days from the date the request for the administrative hearing is received by the DAH.

(e) The administrative hearing date may be extended beyond the ninety (90) calendar days by:

1. A mutual agreement by the provider and the department; or
2. A continuance granted by the hearing officer.

(f)1. If the prehearing conference is requested, it shall be held at least thirty (30) calendar days in advance of the hearing date.

2. Conduct of the prehearing conference shall comply with KRS 13B.070.

(g) If a provider does not appear at the hearing on the scheduled date and the hearing has not been previously rescheduled, the hearing officer may find the provider in default pursuant to KRS 13B.050(3)(h).

(h) A hearing request shall be withdrawn only under the

following circumstances:

1. The hearing officer receives a written statement from a provider stating that the request is withdrawn; or

2. A provider makes a statement on the record at the hearing that the provider is withdrawing the request for the hearing.

(i) Documentary evidence to be used at the hearing shall be made available in accordance with KRS 13B.090.

(j) The hearing officer shall:

1. Preside over the hearing; and

2. Conduct the hearing in accordance with KRS 13B.080 and 13B.090.

(k) The provider shall have the burden of proof concerning the appealable issues under this administrative regulation.

(l)1. The hearing officer shall issue a recommended order in accordance with KRS 13B.110.

2. An extension of time for completing the recommended order shall comply with the requirements of KRS 13B.110(2) and (3).

(m)1. A final order shall be entered in accordance with KRS 13B.120.

2. The cabinet shall maintain an official record of the hearing in compliance with KRS 13B.130.

3. In the correspondence transmitting the final order, clear reference shall be made to the availability of judicial review pursuant to KRS 13B.140 and 13B.150.

Section 23.[22.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Supplemental Medicaid Schedule KMAP-1"; 2013[January 2007] edition;

(b) "Supplemental Medicaid Schedule KMAP-4", 2013[January 2007] edition; [and]

(c) "Supplemental Medicaid Schedule KMAP-6", 2013 edition; and

(d) "CMS Manual System Pub 100-03 Medicare National Coverage Determinations Transmittal 101", June 12, 2009 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

LAWRENCE KISSNER, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2013

FILED WITH LRC: December 11, 2013 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 22, 2014 at 9:00 a.m. in the Health Services Auditorium, Suite B, of the Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 15, 2014 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 11:59 p.m., January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, 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 persons: Jill Hunter or Stuart Owen

(1)Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Department for Medicaid Services (DMS) reimbursement policies for care provided by

inpatient acute care hospitals (reimbursed via a diagnosis-related group methodology) to Medicaid recipients who are not enrolled with a managed care organization. Managed care organizations are not required to reimburse in the same manner as DMS for services provided by an inpatient acute care hospital.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Kentucky Medicaid program reimbursement policies for hospitals reimbursed via a diagnosis-related group methodology.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the Kentucky Medicaid program reimbursement policies for hospitals reimbursed via a diagnosis-related group methodology.

(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 authorizing statutes by establishing the Kentucky Medicaid program reimbursement policies for hospitals reimbursed via a diagnosis-related group methodology.

(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 replaces the current diagnosis related group (DRG)-based reimbursement methodology (which is based on a Medicare DRG grouper) with a methodology based on a system owned by 3M known as the "3M™ All Patient Refined DRG (APR DRG) Classification System." The 3M APR-DRG system is currently used by at least nine (9) states' Medicaid programs including border states Tennessee and West Virginia. The 3M DRG system more accurately captures and identifies the resources involved in caring for inpatient hospital patients due to enhanced identification of the patients' conditions. For example, this system includes four (4) severity-of-illness levels and four (4) risk-of-mortality levels within each diagnosis related group (DRG). 3M's software classifies patients using clinical logic that assesses factors such as age, comorbidities, primary diagnosis, and necessary procedures. Additionally, it captures information on the full array of patients (regardless of payor source, i.e. Medicare, Medicaid, private insurance, no insurance) in an inpatient acute care hospital. The 3M system also contains more neonatal DRGs than the version (Medicare grouper) currently used by DMS. The amendment also establishes that DMS will reimburse for organ transplants through the DRG methodology (this administrative regulation) – currently DMS pays for organ transplants via another administrative regulation (907 KAR 1:350) at eight (80) percent of the hospital's usual and customary charge not to exceed \$75,000; establishes that DMS's reimbursement for out-of-state hospitals (other than Vanderbilt Medical Center and a children's hospital located in a Metropolitan Statistical Area whose boundaries overlap Kentucky) will be eighty (80) percent of the in-state APR-DRG base rate multiplied by APR-DRG relative weights [previously DMS paid such a hospital the hospital's Medicare base rate multiplied by 0.7065 and the Kentucky-specific DRG relative weights after the relative weights had been reduced by twenty (20) percent]; revises the matters subject to appeal, based on the new methodology; and states the appeals process for appealing hospital reimbursement. Previously, the administrative regulation did not state the appeals process.

(b) The necessity of the amendment to this administrative regulation: Adopting the new DRG reimbursement model is necessary to enhance DMS's reimbursement by using a system that more accurately captures and identifies (for reimbursement purposes) the resources involved in caring for inpatient acute care hospital patients as well as adopting a model that is compatible with the new international coding system (for health care conditions) that is mandated to become effective October 1, 2014. The current coding system is the International Classification of Diseases -9 or ICD-9. The updated system (which is ICD-10) becomes effective October 1, 2014. The ICD-10 system contains much more detail than the current system and DMS's current DRG reimbursement model is incompatible with the ICD-10 system. The new methodology established in this administrative regulation (the

APR-DRG model) is compatible with ICD-10 and would enable DMS to pay for acute care hospital claims. The existing DRG model would not enable DMS to pay for acute care hospital claims.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by enhancing DMS's reimbursement by using a reimbursement model that more accurately captures and identifies (for reimbursement purposes) the resources involved in caring for inpatient acute care hospital patients as well as adopting a reimbursement model that is compatible with the upcoming coding classification system change from ICD-9 to ICD-10.

(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 enhancing DMS's reimbursement by using a reimbursement model that more accurately captures and identifies (for reimbursement purposes) the resources involved in caring for inpatient acute care hospital patients as well as adopting a reimbursement model that is compatible with the upcoming coding classification system change from ICD-9 to ICD-10.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The amendment applies to all inpatient acute care hospitals reimbursed by a diagnosis related grouper methodology. Currently, there are approximately sixty-five (65) acute care hospitals participating in the Kentucky Medicaid 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. No compliance action is mandated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment imposes no cost on the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Inpatient acute care hospitals will be reimbursed via a methodology designed to more accurately capture and reflect their costs.

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

(a) Initially: The amendment does not result in additional costs to the Department for Medicaid Services for the first year.

(b) On a continuing basis: The amendment does not result in additional costs to the Department for Medicaid Services for subsequent years.

(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 Title XIX of the Social Security Act 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 will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the amendment applies to all regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(30) and 42 C.F.R.447.205.

2. State compliance standards. KRS 205.520(3) states, "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. Medicaid reimbursement for services is required to be consistent with efficiency, economy and quality of care and be sufficient to attract enough providers to assure access to services. 42 U.S.C. 1396a(a)(30)(A) requires Medicaid state plans to: "...provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area." 42 C.F.R. 447.205 mandates that the state provide public notice of reimbursement changes.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The policy is not stricter than the federal standard.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 (DMS) will be impacted by the amendment.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.

3. 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 revenue above the current revenue level being generated for the first year for state or local government due to the amendment to 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? DMS anticipates no revenue above the current revenue level being generated in subsequent years for state or local government due to the amendment to this administrative regulation.

(c) How much will it cost to administer this program for the first year? The amendment does not result in additional costs to the Department for Medicaid Services for the first year.

(d) How much will it cost to administer this program for subsequent years? The amendment does not result in additional costs to the Department for Medicaid Services 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:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Family Support (Amendment)

921 KAR 2:035. Right to apply and reapply.

RELATES TO: KRS 194A.060[194.060], 205.175, 205.177, 205.200(1), 205.245, 45 C.F.R. 206.10, 42 U.S.C. 601-619.[et seq.], 1973gg-5

STATUTORY AUTHORITY: KRS 116.048(1), 194A.050(1), 205.200(2), 42 U.S.C. 601-619[et seq., EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs[EO-96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Health and Family Services]. KRS Chapter 205 requires the Cabinet for Health and Family Services to administer the[shall administer public assistance programs including] Kentucky Transitional Assistance Program (K-TAP) and the State Supplementation Program (SSP) for persons who are aged, blind, or have a disability[of the aged, blind and persons with disabilities. This administrative regulation establishes the procedure for applying for assistance]. KRS 116.048 designates the cabinet to have responsibility for the administration of public assistance programs as a voter registration agency in accordance with 42 U.S.C.[USC] 1973gg-5. This administrative regulation establishes policy and procedures necessary to apply for assistance and provide an eligible public assistance participant the opportunity to register, or to decline from registering, to vote.

Section 1. Right to Apply or Reapply. (1) An individual may apply or reapply for K-TAP[Kentucky Transitional Assistance Program (K-TAP)] or SSP[State Supplementation Program (SSP)] through the Department for Community Based[Community-Based] Services (DCBS).

(2) An application shall have been made[-(a)] on the date:

(a)[4.] An individual makes an application by telephone;

(b) An individual or the individual's authorized representative is in the DCBS office and signs an application form incorporated by reference in 921 KAR 2:040; or

(c) DCBS is contacted for special accommodations due to an impairment or disability[or his representative signs the DCBS application form, incorporated by reference in 921 KAR 3:030; and

2. The application is received at the DCBS office; or

(b) On the date the agency is contacted, if the person:

1. Has a physical or mental disability; and

2. Needs special accommodation due to the impairment].

(3) If an individual[the client] is physically unable to come to the office to apply, the individual[he] may:

(a) Designate an authorized representative to apply;[for him; or]

(b) Request a home visit to complete the application process;

or

(c) Make an application by telephone.

(4) The applicant may be:

(a) Assisted by an individual of the applicant's[his] choice in the application process; and

(b) Accompanied by this individual in a contact with DCBS[the agency].

(5) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for persons who are:

(a) Deaf; or

(b) Hard of hearing.

(6) Interpreter services shall be provided for a non-English speaking individual, utilizing procedures and forms specified by 920 KAR 1:070.

(7) The cabinet shall not discriminate against an applicant based on age, race, color, sex, disability, religion[religious creed],

national origin, or political beliefs.

Section 2. Who May Sign an Application. (1) Except for a case based on incapacity, an application for K-TAP[Kentucky Transitional Assistance Program (K-TAP)] shall be signed by:

- (a) The relative with whom a needy child lives;
- (b) The legally appointed guardian of the relative; or
- (c) A representative authorized in writing to act on behalf of the relative.

(2) An application for K-TAP[Kentucky Transitional Assistance Program (K-TAP)] based on incapacity shall be signed by:

- (a) An individual listed in subsection (1) of this section; or
- (b) An interested party acting on behalf of the applicant.

(3) An application for SSP[state supplementation] shall be signed by:

- (a) The individual who is aged, blind, or has a disability;
- (b) An interested party;
- (c) The[His] legally appointed guardian for the individual who is aged, blind, or has a disability; or
- (d) The representative payee receiving the Supplemental Security Income (SSI) benefit.

Section 3. [Where Applications are Filed and Processed.

(1) The application:

- (a) may be made at a DCBS office; and
- (b) Shall be processed in the county of residence.

(2) If the client is applying in a county other than the county of residence and the client is hospitalized:

(a) The DCBS office in the county of hospitalization shall take the application and transfer the pending application to the county of residence; and

(b) The DCBS office in the county of residence shall process the application using the original application date.

(3) If the client is applying in a county other than the county of residence and the client is not hospitalized:

(a) The DCBS office in the receiving county shall:

- 1. Partially complete the application;
- 2. Transfer it to the county of residence on the same day the application is taken; and
- 3. Explain to the client that the application will be processed in the county of residence;

(b) The DCBS office in the county of residence shall schedule a face-to-face interview. The application shall be processed using the original application date.

(4) Application by mail:

(a) A Kentucky resident who is temporarily out of state, or someone acting on his behalf may initiate the application process by mail if:

- 1. An emergency arises from accident or sudden illness;
- 2. Care and services are needed immediately; and
- 3. Health would be endangered by returning to the state.

(b) Upon notification of the emergency an application form shall be forwarded to the initiating party. Section 4.] Action on Applications. (1) A decision shall be made on an application and payment made within:

(a) Forty-five (45) days for K-TAP[Kentucky Transitional Assistance Program (K-TAP)] or SSP[State Supplementation Program (SSP)]; or

(b) Ninety (90) days for SSP[State Supplementation Program (SSP)] determinations in which permanent and total disability shall be established.

(2) Exception to this time standard may be made:

(a) If the applicant is unable to obtain necessary verification for a determination of eligibility; or

(b) For failure or delay, that cannot be controlled by DCBS[the department], on the part of the applicant or examining physician.

(3) The case record shall document the cause for the delay when the time standards are not met.

(4) Failure to process an application within the time frame shall not be used as the basis for denial.

Section 4. [5.] Voter Registration. [(4)] In accordance with KRS 116.048 and 42 U.S.C. 1973gg-5, an applicant or recipient [meeting

~~all of the following criteria]~~ shall be provided the opportunity to complete an application to register to vote or update his current voter registration in accordance with 921 KAR 3:030, Section 8]:

- ~~(a) Be age eighteen (18) or over; and~~
- ~~(b) Be present in the office at the time of the interview or when a change of address is reported; and~~

~~(c) Not be:~~

- ~~1. Registered to vote; or~~
- ~~2. Registered to vote at his current address.~~

~~(2) An individual not included in the assistance application shall not be registered to vote in this process, including a:~~

- ~~(a) Payee only;~~
- ~~(b) An authorized representative; or~~
- ~~(c) An individual acting as a responsible party.~~

~~(3) Forms and information utilized in the voter registration process shall remain confidential and be used for voter registration purposes.~~

~~(4) A person other than a Board of Elections official shall not view a form or information utilized directly in the voter registration process.~~

~~(5) Forms necessary to apply for assistance or to register a K-TAP or state supplementation (SSP) participant to vote are incorporated by reference in 921 KAR 3:030, Section 10].~~

Section 5. [6.] Disclosure of Information. Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted pursuant to KRS 194A.060[194.060], 205.175, and 205.177.

TERESA C. JAMES, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: December 10, 2013

FILED WITH LRC: December 11, 2013 at 1 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 22, 2014 at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 15, 2014, 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 11:59 p.m., January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov 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: Elizabeth Caywood

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedure for applying and reapplying for the Kentucky Transitional Assistance Program (K-TAP) and the State Supplementation Program (SSP). Additionally, this administrative regulation establishes policy and procedures necessary to provide an eligible public assistance participant the opportunity to register, or to decline from registering, to vote.

(b) The necessity of this administrative regulation: This administrative regulation is needed to establish standards for applying and reapplying for assistance and registering to vote.

(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 policies

and procedures necessary to apply for K-TAP and SSP assistance and provide an eligible public assistance participant the opportunity to register, or to decline from registering, to vote.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements necessary for K-TAP and SSP applicants to apply and reapply for public assistance. This administrative regulation also establishes the requirements necessary for voter registration agencies.

(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 change the existing administrative regulation by allowing K-TAP and SSP applicants the ability to apply and reapply for assistance by telephone, and by removing the requirement that the county of residence complete the application process when an application is taken in another county. In addition, the amendment makes other technical corrections in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to align program policy with the new family support business processes of the Department for Community Based Services (DCBS). Caseload growth, limited resources, and the forthcoming implementation of the Health Benefit Exchange and Medicaid expansion necessitated that DCBS engage in an extensive redesign of its business processes that support public assistance programs. Without the business process redesign, the agency's circumstances would threaten the recruitment and retention of staff, the state's ability to adhere to program standards, and the access and participation of eligible customers in public assistance programs, which gives rise to further concerns about overall public health and welfare.

The business process redesign, starting in August 2012, has entailed utilization of expert consultative services, extensive assessment of DCBS public assistance programs, study of national best practice and innovation, and test pilots of the new business process within variously sized DCBS offices. The new business process resulting from the redesign includes four (4) main functional areas for DCBS services: client intake, call services, eligibility and enrollment, and support services. The new business process pulls upon technology solutions that have been made possible, inclusive of a virtual work environment more removed from geographical barriers such as county lines. The new business process applies case responsibility across staff, organizes work by volume and complexity, and moves DCBS towards the provision of real-time, on-demand services, which has evidenced in other states and DCBS' experience to date a worker's feeling of accomplishment, agency productivity and accuracy, and customer satisfaction.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to KRS 205.200(2) by prescribing the conditions in which an individual may apply and reapply for assistance.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by reflecting and conforming program policy to DCBS' more modernized business practices in the provision of eligibility determination services for K-TAP and SSP.

(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 families who are applying and reapplying for K-TAP and SSP. In September 2013, there were 23,746 K-TAP families and 3,103 SSP recipients.

(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 amendment to this administrative

regulation will not require any additional action by individuals.

(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 will create no new cost to the regulated entities. Public assistance applicants and recipients will be able to apply and reapply for assistance by telephone or in the local DCBS office.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be no new monetary benefits provided to the regulated entities. Public assistance recipients will be able to apply for assistance by telephone or in the local DCBS office.

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

(a) Initially: The amendment to this administrative regulation is technical and conforming in nature and does not have a fiscal impact.

(b) On a continuing basis: The amendment to this administrative regulation is technical and conforming in nature and does not have a continuing fiscal impact.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Title IV-A of the Social Security Act and state general funds used to meet Maintenance of Effort requirements are the funding source for K-TAP. State funds support the State Supplementation Program.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. 601 to 619, 1973gg-5

2. State compliance standards. KRS 194A.050(1), 205.220, 205.245

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 601 to 619, 1973gg-5

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter, additional, or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter, additional, or different responsibilities or requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) 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 Community Based Services will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 116.048(1), 194A.050(1), KRS 205.200(2), 42 U.S.C. 601 to 619, 1973gg-5

(3) 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 amendment will generate no revenue in 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 amendment will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not require any additional cost in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not require any additional costs 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

GENERAL GOVERNMENT CABINET
Kentucky Board of Chiropractic Examiners
(New Administrative Regulation)

201 KAR 21:001. Definitions for 201 KAR Chapter 21.

RELATES TO: KRS 312.015, 312.200

STATUTORY AUTHORITY: KRS 312.019(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation sets forth the definitions for 201 KAR Chapter 21.

Section 1. Definitions. (1) "Accepted standards" means those standards of review, care, skill, and treatment that are recognized by a reasonably prudent chiropractor as being acceptable under similar conditions and circumstances.

(2) "Accredited chiropractic college or university" means a chiropractic college or university fully accredited by the Council on Chiropractic Education or its successor and that:

(a) Maintains a standard and reputability approved by the board; and

(b) Meets all educational standards for preceptorship programs as established by the Council on Chiropractic Education.

(3) "Advertisement of free or discounted services" means any advertisement or solicitation, by any medium, offering free or discounted examinations, consultation, treatment, goods, or other services.

(4) "Appropriate chiropractic treatment" means a determination made of treatment and other services performed which, by virtue of a substantiated and properly diagnosed condition, appear to be of a type consistent with that diagnosis.

(5) "Bill for treatment" means all services provided to a patient, regardless of the monetary consideration paid to the chiropractor.

(6) "Board" is defined by KRS 312.015(1).

(7) "Committee" means the peer review committee established by KRS 312.200.

(8) "Complaint" means an allegation alleging misconduct that might constitute a violation of KRS Chapter 312 or 201 KAR Chapter 21.

(9) "Complete notice of right of rescission" means a conspicuous statement, of not less than ten (10) point font in any advertisement of free or discounted services that reads substantially as follows: "You have the right to rescind, within seventy-two (72) hours, any obligation to pay for services performed in addition to this free or discounted service."

(10) "Conviction" means a finding of guilt resulting from a plea of guilty or nolo contendere, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment, or the sentence being deferred or suspended.

(11) "Hearing officer" is defined by KRS 13B.010(7).

(12) "Licensee" means a person who performs chiropractic and who is licensed under KRS 312.015 to 312.991, and 201 KAR Chapter 21, as a chiropractor.

(13) "Notice of rescission" means notice by the consumer rescinding any agreement to pay for unadvertised additional services performed or to be performed in addition to the free or discounted service.

(14) "Patient" means an individual who receives treatment from a chiropractor.

(15) "Peer review" is defined by KRS 312.015(4).

(16) "Preceptor" means a licensed doctor of chiropractic, who, under approval of the board and an accredited chiropractic college or university, provides an opportunity for an undergraduate intern to work in the doctor's office.

(17) "Properly utilized services" means appropriate treatment services rendered, including the frequency and duration of those services and which are substantiated as being necessary and

reasonable by clinical records and reports prepared by the treating chiropractor.

(18) "Seventy-two (72) hour right of rescission" means the right of a consumer to rescind within seventy-two (72) hours any agreement to pay for services if performed the same day in addition to the advertised free or discounted service at an additional unadvertised cost, or any agreement entered into on the same date to submit to a series, or course of treatments at an additional unadvertised cost.

(19) "Unconscionable fees" means charges or bills for treatment submitted for services performed that are unreasonable charges for those services as compared to the usual and customary charges by a chiropractor or by a health care provider other than a chiropractor for the same or similar services in the locality where the services were performed.

(20) "Undergraduate intern" means an individual studying at an accredited chiropractic college or university and who is in the final academic year prior to receiving a degree in chiropractic.

(21) "Unlawful solicitation" means offering money or something of value to a potential patient or patient in exchange to seek treatment from the licensee.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 9:00 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the definitions to be used for interpretation of 201 KAR Chapter 21.

(b) The necessity of this administrative regulation: The necessity of this regulation is to define terms used in 201 KAR Chapter 21 so they may be interpreted and enforced clearly.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019(9)(j) authorizes the board to adopt administrative regulations to govern the practice of chiropractic.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the definitions to be used for interpretation of 201 KAR Chapter 21.

(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 administrative regulation impacts the approximately 1,135 licensed doctors of chiropractic in the Commonwealth of Kentucky and anyone attempting to interpret these regulations.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: Licensees must read the definitions and be aware of each term's meaning as it relates to 201 KAR Chapter 21.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The doctors of chiropractic benefit by having the definitions of terms used within the regulations to clarify the regulations and put the licensee on clear notice.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied since this regulation applies equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.019(9)

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners (New Administrative Regulation)

201 KAR 21:042. Standards, application, and approval of continuing education courses.

RELATES TO: KRS 312.085, 312.175

STATUTORY AUTHORITY: KRS 312.019, 312.085, 312.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation establishes the procedures relating to standards, application, and approval for continuing education programs.

Section 1. Standards for Continuing Education Programs. (1) The continuing education program shall be either:

(a) A post graduate course of study at or sponsored by a chiropractic college accredited by the Council on Chiropractic Education or its successors; or

(b) A continuing education program approved by the board, or a committee designated by the board to act between sessions of the board.

(2) The continuing education program shall be:

(a) Sponsored by a national or state chartered organization of chiropractors; and

(b) Open to all doctors of chiropractic in Kentucky who desire to attend.

(3) The instructors and speakers shall be in the field of chiropractic, chiropractic education, or allied sciences.

(4) The programs to be presented shall contain subjects of clinical benefit to licensees and on a postgraduate level of education.

Section 2. Application for Approval. (1) The sponsoring party of a proposed educational program for license renewal shall apply for approval of the program prior to its presentation by providing to the board:

(a) The name of the course;

(b) The name of the sponsoring organization;

(c) The objective of the program;

(d) The number of classroom hours over which the educational program will be presented and the dates presented;

(e) The names of the instructors and speakers and the name and address of the institution with which they are associated, if applicable;

(f) The instructors' or speakers' educational background and other relevant qualifications;

(g) The name and address of the person authorized to certify attendance; and

(h) A non-refundable educational program review fee of twenty-five (25) dollars for programs with one (1) date and one (1) location or \$100 for programs with multiple dates and locations.

(2) The educational program may be monitored by an officer of the board, the field coordinator of the board, or a person designated by the president of the board.

(3)(a) A proposed program shall be submitted to the board for approval at least sixty (60) days prior to the date of the presentation.

(b) The board, or a designee of the board to act between meetings of the board, shall give written notification of the board's

approval or disapproval of the program to the sponsoring party not more than thirty (30) days after receiving the proposed educational program.

(c) Within thirty (30) days of completion of the program, the sponsoring party shall submit to the board an individual, written certification of the:

1. Name and license number of each licensee in attendance at the program;
2. Sessions attended by each licensee; and
3. Number of hours of each session attended.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 9:45 a.m., local time, at the Kentucky Board of Chiropractic Examiners, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards and process for application and approval of continuing education courses.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the standards and process for application and approval of continuing education courses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019(9)(f) authorizes the board to adopt administrative regulations relating to the type, character and location of postgraduate study to be done by any licensee in order to comply with KRS 312.175. This administrative regulation establishes these standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the standards for application and approval of continuing education courses which are required for license renewal, activation and reinstatement.

(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 administrative regulation impacts the approximately 1,135 licensed doctors of chiropractic in the

Commonwealth of Kentucky as well as any qualified organization or chiropractic college or university who would submit an educational program for review and approval.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees must include the patient's initial history as part of the patient's records. The licensee will also be required to have the treating doctor's name on the patient's daily visit notes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each entity submitting an educational program for review would have to submit the appropriate review fee for the number of programs they are submitting for review.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The doctors of chiropractic benefit by having the specific requirements by which continuing education programs are reviewed and approved. The organizations or chiropractic colleges or universities will also benefit by having the standards for approval for continuing education programs. They will also benefit from increased attendance by Kentucky licensed chiropractors if their course is board approved.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation does establish a fee for review of educational programs.

(9) TIERING: Is tiering applied? Tiering was not applied as this regulation applies to each group impacted equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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?

Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.019, 312.085, 312.095, 312.175

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners
(New Administrative Regulation)**

201 KAR 21:052. Appeal of denial of license.

RELATES TO: KRS 312.150

STATUTORY AUTHORITY: KRS 312.019(3), (9), 312.163.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(3) authorizes the board to deny, limit, or refuse to renew any license, certification, or registration it issued. KRS 312.019(9) authorizes the board to promulgate administrative regulations consistent with KRS Chapter 312, governing the practice of chiropractic. KRS 312.163 provides disciplinary powers of the board after a hearing. This administrative regulation establishes requirements relating to the appeal of denial of a license.

Section 1. Right of Appeal of Denial of License. (1) If the board denies an application for licensure, activation, restoration, reinstatement, certification of specialty, or application for renewal of licensure, the board shall issue a notice of denial informing the applicant of the specific reason for the board's action, including:

(a) The statutory or regulatory violation; and

(b) The factual basis on which the pending denial is based.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. This request shall be sent to the Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142 or by personal delivery to 209 South Green Street, Glasgow, Kentucky.

(3) If the request for an appeal is not timely filed, the notice of denial shall be effective upon the expiration of the time for the applicant to request an appeal.

(4) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 10:15 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 16, 2014, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides an appeal process for the denial of a license or certification of a specialty.

(b) The necessity of this administrative regulation: The necessity of this regulation is to allow for an appeal process for the denial of licensure or specialty certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019 (3) gives the board authority to deny, limit, or refuse to renew and license, certification or registration issued by it.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which an appeal may be made by a licensee in response to denial of license or certification of specialty.

(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 administrative regulation directly impacts any of the 1,135 licensees who may have a license or specialty certification denied.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees should read and be aware of this regulation should they have the need to utilize this appeal process.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Should the licensee be denied a license or certification, they will have a process by which to appeal the decision.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied since this regulation applies equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 312.019(3), KRS 312.163

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners
(New Administrative Regulation)**

201 KAR 21:053. Appeal of revocation of probation.

RELATES TO: KRS 312.150, 312.163

STATUTORY AUTHORITY: KRS 312.019(9), 312.163

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(9) authorizes the board to promulgate administrative regulations consistent with KRS Chapter 312. KRS 312.163(3) requires the board to provide an administrative hearing to a licensee who is the subject of board discipline. This administrative regulation establishes procedures for a licensee to appeal a revocation of probation.

Section 1. Revocation of Probation. (1) If the board moves to revoke the probation of a licensee, the board shall issue to the last known address on file with the board for the licensee, a notice of revocation and inform the licensee:

(a) The factual basis on which the revocation is based;

(b) The probation term(s) violated; and

(c) That the licensee may appeal the revocation to the board within fifteen (15) days of the date of notification of revocation.

(2) A written request for an administrative hearing shall be filed with the board within fifteen (15) calendar days of the date of the board's notice. This request shall be sent to the Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142 or by personal delivery to 209 South Green Street, Glasgow, Kentucky.

(3) If the request for an appeal is not filed by the deadline established in subsections (1)(c) and (2) of this section, the notice of revocation shall be effective upon the expiration of the time for the licensee to request an appeal.

(4) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 10:30 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 16, 2014, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides an appeal process for the revocation of probation.

(b) The necessity of this administrative regulation: The necessity of this regulation is to allow for an appeal process for the revocation of probation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019 (3) gives the board authority to deny, limit, or refuse to renew and license, certification or registration issued by it.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the manner in which an appeal may be made by a licensee in response to revocation of probation.

(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 administrative regulation directly impacts any of the 1,135 licensees who may have probation revoked.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensees should read and be aware of this regulation should they have the need to utilize this appeal process.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Should the licensee have a probation revoked, they will have a process by which to appeal the decision.

(5) Provide an estimate of how much it will cost to implement

this administrative regulation:

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied since this regulation applies equally to all licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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?

Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 312.163

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Board of Chiropractic Examiners (New Administrative Regulation)

201 KAR 21:054. Emergency orders.

RELATES TO: 312.019(3)

STATUTORY AUTHORITY: KRS 312.019(3), 312.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(1) authorizes the Board of Chiropractic Examiners to establish administrative regulations relating to the practice of chiropractic. KRS 312.019(3) authorizes the board to suspend or limit any license issued by it. This administrative regulation establishes procedures for the emergency suspension or restriction of a license if there is a risk to the public.

Section 1. Emergency Order of Suspension or Limitation. (1) The board president or the board as a whole may take emergency action, which shall be in accordance with KRS 13B.125, by issuing

an emergency order to suspend or limit a license to practice chiropractic. An emergency order shall:

(a) Be based upon a finding by the board president and vice president or the board as a whole that:

1. The emergency order is in the public interest; and

2. There is substantial evidence of immediate danger to the health, welfare, or safety of a patient or the general public;

(b) Specify the factual basis that caused the emergency condition to exist;

(c) Specify the statutory or regulatory violation that caused the emergency condition to exist; and

(d) Be served on a licensee in accordance with KRS 13B.050(2).

(2) Upon receipt of an emergency order, a licensee shall immediately comply with the emergency order of suspension or limitation.

(3) A licensee may appeal the emergency order. An appeal shall be:

(a) Made by a written request to the board;

(b) In accordance with KRS 13B.125; and

(c) Made within thirty (30) days after receipt of the order.

(4) A chiropractor's license shall be revoked if:

(a) The licensee does not request a hearing; or

(b) The condition that resulted in the emergency order is not corrected within thirty (30) calendar days of service of the emergency order.

(5) The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.

MARK WOODWARD, D.C., President

APPROVED BY AGENCY: December 2, 2013

FILED WITH LRC: December 5, 2013 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014, at 10:45 a.m., local time, at the Kentucky Board of Chiropractic Examiners office, 209 South Green Street, Glasgow, 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 11:59 p.m. on January 31, 2014. 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: Karalee Oldenkamp, D.C., Executive Director, Kentucky Board of Chiropractic Examiners, P.O. Box 183, Glasgow, Kentucky 42142, phone (270) 651-2522, fax (270) 651-8784.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Karalee Oldenkamp, D.C.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the board to issue emergency orders and the procedures to follow.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the requirements for the board to issue emergency orders and the procedures to follow.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019(3) authorizes the board to suspend any license issued by it. This administrative regulation establishes the requirements and procedures for the board to follow when issuing emergency orders.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This

administrative regulation establishes the requirements for the board to issue emergency orders and the procedures to follow.

(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 administrative regulation impacts the approximately 1,135 licensed doctors of chiropractic in the Commonwealth of Kentucky who may receive emergency orders from the board. It also impacts the public who may be in danger if there is evidence of immediate danger and the licensee is not issued an emergency order.

(4) Provide an analysis of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) List the actions that each of the regulated entities in question (3) will have to take to comply with this administrative regulation or amendment: All licensed chiropractors should read and be aware of this regulations. If emergency orders are received they will then be on notice of their requirements to comply and the procedure to appeal and request a hearing.

(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 comply with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The doctors of chiropractic benefit by a receiving clear emergency order and have a process by which to appeal. The public benefits by receiving assurances that those engaged in the practice of chiropractic in Kentucky can be suspended in a timely manner if substantial evidence of immediate danger to the public is found.

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

(a) Initially: No additional cost is foreseen for the implementation of this administrative regulation.

(b) On a continuing basis: No additional cost is foreseen on a continuing basis for the implementation of 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 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: No increase in fees will be necessary to implement this regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied as the requirements and process apply equally to all licensees in the Commonwealth of Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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?
Board of Chiropractic Examiners

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 312.019(3)

3. 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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Real Estate Appraisers Board (Repealer)

201 KAR 30:321. Repeal of 201 KAR 30:320.

RELATES TO: KRS 324A.152(4)(c), 324A.155

STATUTORY AUTHORITY: KRS 324A.152(8), 324A.155

NECESSITY, FUNCTION, AND CONFORMITY: The statutory authority for surety bonds was repealed in 2013, thus eliminating the need for 201 KAR 30:320. This administrative regulation repeals 201 KAR 30:320.

Section 1. 201 KAR 30:320, Surety bond, is hereby repealed.

HAROLD BRANTLY, Chair

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 27, 2014 at 3:00 p.m., at 135 West Irvine Street, Suite 301, Richmond, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 20, 2014, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Larry Disney, Executive Director, Kentucky Board of Real Estate Appraisers, 135 West Irvine Street, Suite 301, Richmond, Kentucky 40475, phone (859) 623-1658, fax (859) 623-2598.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Larry Disney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 201 KAR 30:320 as surety bonds were eliminated by the General Assembly.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify that surety bonds are no longer required under KRS Chapter 324A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 324A.154(8) requires the board to

establish by administrative regulation rules governing the standards of operation of an appraisal management company.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation clarifies that surety bonds have been replaced by the recovery 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: The amendment will change this existing administrative regulation by repealing 201 KAR 30:320.

(b) The necessity of the amendment to this administrative regulation: The necessity of the amendment to this administrative regulation is to clarify repeal of the surety bonds.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 324A.154(8) requires the board to establish by administrative regulation rules governing the standards of operation of an appraisal management company.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by repealing the surety bond requirement made obsolete by the General Assembly.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board has registered approximately 100 Appraisal Management Companies.

(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 will require no action.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation will involve no additional costs to the Appraisal Management Companies.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will eliminate any uncertainty for Appraisal Management Companies regarding surety bonds.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 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 to the board 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 not directly establish fees.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Real Estate Appraisers Board.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 324A.152(8); 15 U.S.C. 1639e(i); 12 C.F.R. 226.42(f).

3. 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 Board of Licensure for Professional Art Therapists (New Administrative Regulation)

201 KAR 34:025. Application; approved programs.

RELATES TO: KRS 309.133, 309.134

STATUTORY AUTHORITY: KRS 309.1315(1), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) requires the Kentucky Board of Licensure for Professional Art Therapists to promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399. KRS 309.1315(4) requires the board to process applications for licensure. KRS 309.133 and 309.134 authorize the board to review and approve or reject the qualifications of all applicants for licensure. This administrative regulation establishes the procedure for submitting an application for licensure.

Section 1. Application. (1) A person seeking licensure as a licensed professional art therapist shall submit an Application for Licensed Professional Art Therapist to obtain a license to engage in the practice of professional art therapy after the requirements established in KRS 309.133 are met.

(2) A person seeking licensure as a licensed professional art therapist associate shall submit an Application for Licensed Professional Art Therapist Associate to obtain a license to engage in the practice of professional art therapy after the requirements established in KRS 309.134 are met.

(3) The application shall be accompanied by the appropriate nonrefundable application fee established in 201 KAR 34:020.

(4) The application shall be signed by the applicant.

(5)(a) The application for a licensed professional art therapist license shall include a copy of the applicant's current registration and certification card issued by the Art Therapy Credentials Board, Inc.

(b) Proof of certification or registration shall constitute evidence that the applicant has met the educational and experiential requirements for licensure set forth in KRS 309.133(1).

(6)(a) The applicant shall ensure that a certified, official transcript from the college or university registrar's office is transmitted to the board at the time of application to substantiate that the applicant has been awarded or conferred a master's or doctoral degree in art therapy from a program accredited by the American Art Therapy Association (AATA).

(b) If the applicant does not possess a degree from an AATA accredited program, the applicant's degree shall meet the requirements of Section 2 of this administrative regulation.

Section 2. Degree from a non-accredited program. (1) A master's or doctoral degree from a college or university approved by the board pursuant to KRS 309.133(3) or 309.134 shall be a

degree program that is listed as accredited by the American Art Therapy Association.

(2) If an applicant's master's or doctoral degree is not listed as accredited by the American Art Therapy Association, then the applicant shall demonstrate that the degree consisted of at least sixty (60) semester hours as evidenced by a certified copy of an academic transcript of coursework at the graduate level.

(3)(a) The coursework for the degree shall include twenty-four (24) semester hours of sequential course work in art therapy courses from an accredited institution as defined in KRS 309.130(6).

(b) The coursework in art therapy shall include the following components:

1. History of art therapy;
2. Theory of art therapy;
3. Techniques of practice in art therapy;
4. The application of art therapy with people in different treatment settings;
5. Psychopathology;
6. Assessment of patients and diagnostic categories;
7. Ethical and legal issues of art therapy practice;
8. Standards of good practice in art therapy; and
9. Matters of cultural diversity bearing on the practice of art therapy.

(c) In addition to the coursework in art therapy, the degree shall include twenty-four (24) semester hours covering the following related content areas:

1. Psychopathology;
2. Human growth and development;
3. Counseling and psychological theories;
4. Cultural and social diversity;
5. Assessment;
6. Research;
7. Studio art; and
8. Career and lifestyle development.

(4) The degree shall include the supervised internship experience required by KRS 309.133(1)(a) or (b).

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Licensed Professional Art Therapist", January 2014; and

(b) "Application for Licensed Professional Art Therapist Associate", January 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARYBETH ORTON, Chair

APPROVED BY AGENCY: December 13, 2013

FILED WITH LRC: December 13, 2013 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 24, 2014 at 1:00 p.m., at 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 17, 2014, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Lucie Duvall, Board Administrator, Kentucky Board of Licensure for Professional Art Therapists, 911 Leawood Drive, Frankfort, Kentucky 40601, phone (502) 564-3296, fax (502) 696-8030.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: James J. Grawe

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the application and program requirements for licensure of professional art therapists and associates.

(b) The necessity of this administrative regulation: This regulation is necessary to identify the application and program requirements for licensure of professional art therapists and associates.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations necessary to administer the law.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist the board in administering this licensure in this program.

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

(a) How the amendment will change this existing administrative regulation: 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: There are approximately eighty persons licensed as art therapists in the Commonwealth. The board receives approximately ten (10) to twenty (20) applications for licensure each year.

(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 are applying for licensure will be required to comply with this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Applicants will be required to submit the application fee submitted by another administrative regulation.

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

(a) Initially:

(b) On a continuing basis: See paragraph (5)(a).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by 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: An increase in fees for reinstatements and late renewals will not be required to implement the changes made by this regulation.

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

(9) TIERING: Is tiering applied? Tiering was applied for two different levels of licensure by the board.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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 Board of Licensure for Professional Art Therapists.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.: KRS 309.1315; KRS 309.133.

3. 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 Board of Medical Imaging and Radiation Therapy
(New Administrative Regulation)**

201 KAR 46:015. Compensation.

RELATES TO: KRS 311B.040(8)

STATUTORY AUTHORITY: KRS 311B.040(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.120 authorizes the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to compensate a member of the board engaged in the discharge of official duties at scheduled or called meetings of the board.

Section 1. (1) Members of the board shall receive compensation of \$100 per diem for each day they actually spend in the discharge of their official duties.

(2) The reimbursement for actual and necessary expenses in accordance with state law and standards applicable to state employees pursuant to KRS 44.060, KRS 45.101, and 200 KAR 2:006.

VANESSA BREEDING, Executive Director

APPROVED BY AGENCY: December 11, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held January 31, 2014, at 9:00 a.m., at the Health Services Conference Suites A & B, 275 East Main Street, Frankfort, Kentucky 40621, Frankfort, Kentucky. 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 11:59 p.m. on January 31, 2014. 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: Vanessa Breeding, Executive Director, Kentucky Board of Medical Imaging and Radiation Therapy, 275

East Main Street, Mailstop, HS1C-A, Frankfort, Kentucky 40621, phone (502) 564-3700 ext. 4172, fax (502) 564-1492.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Vanessa Breeding

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the compensation for the board members for each day of actual board services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the compensation for the board members for each day of actual service.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 311B.040(8) and KRS 311B.120 by establishing the compensation for the board members within the parameters set out in statute.

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation informs the public how much compensation a board member receives for board service.

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

(a) How the amendment will change the existing administrative regulation: 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: There are nine (9) members of 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: The board members will be required to perform service for the board.

(b) In complying with this administrative regulation or amendment, how much will it cost for each of the entities: Not applicable.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Board members and the public will be informed how much compensation a board member receives for board service.

(5) Estimate of how much it will cost to implement this administrative regulation:

(a) Initially: Historically, the board has meet an average of twelve (12) times per year. The cost per meeting will be approximately \$10,800 per meeting, or \$129,000 per year.

(b) On a continuing basis: See above.

(6) The source of funding for the implementation and enforcement of this administrative regulation: The board is funded strictly from fees paid by applicants and licensees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: 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 not establish or increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the compensation is paid to each board member.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that authorizes the action taken by the administrative regulation: 311B.040(8).

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.

(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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? Approximately \$129,000.

(d) How much will it cost to administer this program for subsequent years? Approximately \$129,000 per year.

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 Board of Medical Imaging and Radiation Therapy
(New Administrative Regulation)

201 KAR 46:090. Complaint Process and Administrative Hearings.

RELATES TO: KRS 311B.100, KRS 311B.120, 311B.160, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS311B.050, KRS 311B.120, 311B.180, 311B.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.120 authorizes the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to provide an administrative hearing process for a violation of KRS Chapter 311B. KRS Chapter 13B establishes a uniform procedure to be followed by administrative agencies in conducting agency hearings. This administrative regulation establishes, consistent with the requirements of KRS Chapter 13B, the procedures to be followed by the Board of Medical Imaging and Radiation Therapy in hearing appeals of actions taken under the public health laws of the Commonwealth.

Section 1. Receipt of Complaints. (1) A complaint:

(a) May be submitted by an:

1. Individual;
2. Organization; or
3. Entity;

(b) Shall be:

1. In writing; and
2. Signed by the person offering the complaint; and

(c) May be filed by the board based upon information in its possession.

(2)(a) Upon receipt of a complaint, a copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint.

(b) The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(3)(a) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the

complainant.

(b) The complainant shall have seven (7) days from receipt to submit a written reply to the response.

Section 2. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any relevant material available and make a recommendation to the board.

(a) The names of the individuals and other identifying information shall be redacted to provide anonymity.

(b) The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the complaint screening committee at the earliest opportunity.

Section 3. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint.

(a) The complaint screening committee shall review the investigative report and make a recommendation to the board.

(b) The board shall determine whether there has been a prima facie violation of KRS Chapter 309 or the administrative regulations promulgated thereunder, and a complaint shall be filed.

(2) If the board determines that a complaint does not warrant the issuance of a formal complaint, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a violation has occurred but is not serious, the board shall issue a private written admonishment to the licensee.

(a) A copy of the private written admonishment shall be placed in the permanent file of the licensee.

(b) The licensee shall have the right to file a response in writing to the private written admonishment within thirty (30) days of its receipt and may have it placed in a permanent file.

(c) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the credential holder or applicant.

(4) If the board determines that a complaint warrants a disciplinary action, the board shall issue a notice of disciplinary action and inform the licensee:

(a) The specific reason for the board's action, including:

1. The statutory or regulatory violation; and
2. The factual basis on which the disciplinary action is based;

(b) That the licensee may appeal the disciplinary action to the board within twenty (20) days after receipt of this notification, excluding the day he receives notice.

(c) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. This request shall be sent to the Board of Medical Imaging and Radiation Therapy by mail or by hand-delivery to 275 East Main Street, Mailstop HS1C-A, Frankfort, Kentucky 40621.

(d) If the request for an appeal is not timely filed, the notice of disciplinary action shall be effective upon the expiration of the time for the licensee to request an appeal.

(5) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 4. Settlement by Informal Proceedings. (1) The board, through counsel and the complaint screening committee, may at

any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 5. Right of Appeal of Application. (1) If the board denies an application or renewal for application, the board shall issue a notice of denial informing the applicant of:

(a) The specific reason for the board's action, including:

1. The statutory or regulatory violation; and
2. The factual basis on which the denial is based;

(b) That the applicant may appeal the pending denial to the board within twenty (20) days after receipt of this notification, excluding the day he receives notice.

(c) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. This request shall be sent to the Board of Medical Imaging and Radiation Therapy by mail or by hand-delivery to 275 East Main Street, Mailstop HS1C-A, Frankfort, Kentucky 40621.

(2) If the request for an appeal is not timely filed, the notice of denial shall be effective upon the expiration of the time for the licensee to request an appeal.

(3) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 6. Procedures Without a License. (1) If the board determines an individual or licensee performed a diagnostic or therapeutic procedure without a valid license, the board shall issue a notice of civil penalty and inform the individual or licensee, and employer of the individual or licensee of the specific reason for the board's action, including:

- (a) The statutory or regulatory violation;
- (b) The factual basis on which the civil penalty is based; and
- (c) The civil penalty to be imposed.

(2) That the individual or licensee may appeal the civil penalty to the board within twenty (20) days after receipt of this notification, excluding the day he receives notice.

(3) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. This request shall be sent to the Board of Medical Imaging and Radiation Therapy by mail or by hand-delivery to 275 East Main Street, Mailstop HS1C-A, Frankfort, Kentucky 40621.

(4) If the request for an appeal is not timely filed, the notice of civil penalty shall be effective upon the expiration of the time for the licensee to request an appeal.

(5) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

VANESSA BREEDING, Executive Director

APPROVED BY AGENCY: December 12, 2013

FILED WITH LRC: December 13, 2013 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held January 31, 2014, at 9:00 a.m., at the Health Services Conference Suites A & B, 275 East Main Street, Frankfort, Kentucky 40621, Frankfort, Kentucky. 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 11:59 p.m. on January 31, 2014. 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: Vanessa Breeding, Executive Director, Kentucky Board of Medical Imaging and Radiation Therapy, 275 East Main Street, Mailstop, HS1C-A, Frankfort, Kentucky 40621, phone (502) 564-3700 ext. 4172, fax (502) 564-1492.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Vanessa Breeding

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the process for the board handling complaints and due process to the licensees who are subject to disciplinary action.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the process for the board handling complaints and due process to licensees who are subject to disciplinary action.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to authority delegated in KRS 311B.050(2) and KRS 311B.050(7).

(d) How this administrative regulation will assist in the effective administration of the statutes: This administrative regulation establishes the process for the board handling complaints and due process to licensees who are subject to disciplinary action.

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

(a) How the amendment will change the existing administrative regulation: 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 impact the approximate 8,100 individuals currently licensed by 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: This regulation will establish the complaint and disciplinary hearing processes that have not been promulgated by the board.

(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 regulated entities identified in question (3) are provided an opportunity to respond to any complaint filed and due process if evidence is found to support a violation of state law.

(b) In complying with this administrative regulation or amendment, how much will it cost for each of the entities: No new costs are associated with the changes to the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By complying with the regulation, the individuals identified in question (3) will be provided with due process in the complaint process.

(5) Estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) The source of funding for the implementation and enforcement of this administrative regulation: The Kentucky Board of Medical Imaging and Radiation Therapy is funded from fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: No increase in fees or funding 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 not establish or increase any fees or directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied to this regulation. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. 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? Board of Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that authorizes the action taken by the administrative regulation: 311B.050(2) and (7), KRS 311B.160, and KRS 311B.170.

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.

(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? N/A.

(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? N/A.

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of December 10, 2013

Call to Order and Roll Call

The December 2013 meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, December 10, 2013, at 1:00 p.m., in Room 149 of the Capitol Annex. Senator Ernie Harris, Co-chair, called the meeting to order, the roll call was taken. The minutes of the November 2013 meeting were approved.

Present were:

Members: Senators Joe Bowen, Sara Beth Gregory, and Ernie Harris; and Representatives Johnny Bell, Robert Damron, Jimmie Lee, and Tommy Turner.

LRC Staff: Donna Little, Emily Caudill, Sarah Amburgey, Carrie Klaber, Emily Harkenrider, Karen Howard, Laura Napier, and Betsy Cupp.

Guests: Becky Gilpatrick, Jacqueline Korengel, Kentucky Higher Education Assistance Authority; Travis Powell, Council on Post Secondary Education; Jennifer Jones, Christopher Tapia, Brian Thomas, Kentucky Retirement Systems; Michael Rodman, C. Lloyd Vest II, Board of Medical Licensure; Larry Disney, Jim Grawe, Kentucky Real Estate Appraisers Board; Timothy Owen, Michael West, Board of Interpreters for the Deaf and Hard of Hearing; Clint Quarles, Dr. Robert Stout, Department of Agriculture; Shawn Cecil, Tony Hatton, Aaron Keatley, Division of Waste Management; Kara Daniel, Department of Corrections; Lisa Lang, David Wickersham, Department of Education; Stephanie Brammer-Barnes, Diona Mullins, Stuart Owen, Connie Payne, Cabinet for Health and Family Services; David Leighty, Citizen.

The Administrative Regulation Review Subcommittee met on Tuesday, December 10, 2013, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY:
Division of Student and Administrative Services:
Commonwealth Merit Scholarship Program**

11 KAR 15:020. Student eligibility report. Becky Gilpatrick, director, represented the authority.

COUNCIL ON POSTSECONDARY EDUCATION: Adult Education and Literacy

13 KAR 3:050. GED® eligibility requirements. Jacqueline Korengel, director, and Travis Powell, general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Section 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.

GENERAL GOVERNMENT CABINET: Kentucky Board of Medical Licensure: Board

201 KAR 9:081. Disciplinary proceedings. Michael Rodman, executive director, and C. Lloyd Vest II, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 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.

Kentucky Real Estate Appraisers Board: Board

201 KAR 30:315 & E. Renewal and reinstatement. Larry Disney, executive director, and Jim Grawe, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. Disney stated that initially, the board was unsure regarding how many applicants there would be. There was one (1) Kentucky company, and there were 119 out-of-state companies that would be affected by these fees. The complexities of banking law had increased the processing costs of these applications. Costs were lower than the maximum cap provided in the authorizing statute. Mr. Grawe stated that this administrative regulation established reinstatement and renewal requirements, with the actual fees established in another administrative regulation. Mr. Disney stated that the previous surety bond requirements had proven insufficient; therefore, the \$300 recovery fund fee would be placed in a fund to ensure protection in cases of default.

In response to a question by Representative Damron, Mr. Disney stated that surety bonds were now more difficult to acquire, and this administrative regulation established provisions for renewal and reinstatement.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the material incorporated by reference to add information for applicants for reinstatement, including the fees required to comply with KRS Chapter 324A and this administrative regulation, which requires both applicants for renewal and for reinstatement to use the same renewal form. Without objection, and with agreement of the agency, the amendments were approved.

Board of Interpreters for the Deaf and Hard of Hearing: Board

201 KAR 39:040. Fees. Timothy Owens, chair, and Michael West, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. West stated that a temporary license was sometimes necessary if an applicant was in the process of completing requirements for ordinary licensure. Costs for the board had been rising, including the cost changed by the Division of Occupations and Professions, which had risen 146% since 2002.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 5, to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Waste Management: Brownfield's Redevelopment

401 KAR 102:005. Definitions for 401 KAR Chapter 102. Shawn Cecil, environmental scientist IV; Tony Hatton, executive director; and Aaron Keatley, deputy commissioner, represented the department.

In response to a question by Senator Bowen, Mr. Hatton stated that brownfield size was based on property boundaries. These administrative regulations applied to specific properties and property owners.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY 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.

401 KAR 102:010. Brownfield Redevelopment Program.

In response to a question by Co-Chair Harris, Mr. Keatley stated that the cost of the Brownfield Redevelopment

Program was funded one-third from the General Fund, one third from the fee established in this administrative regulation, and one third from federal funds. This was a voluntary program. The \$2,500 fee would cover some, but not all, of the actual application processing costs. Lowering the fee would require the division to also use general funds to cover the costs of application processing. Public comments expressed surprise that the fee was not higher. Mr. Hatton stated that the application processing procedure included a technical review, which cost approximately \$740. For one (1) in ten (10) of the applications, a Phase One review was conducted as a "random audit." The Phase One review cost approximately \$4,000. There would also be ongoing expenses.

401 KAR 102:020. General requirements for a Property Management Plan for Brownfield Redevelopment Program.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:020 & E. Corrections policies and procedures. Kara Daniel, special assistant to the general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to clarify provisions and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Education: Kentucky Board of Education: Food Service Programs

702 KAR 6:101. Repeal of 702 KAR 6:100. Lisa Lang, assistant general counsel, and David Wickersham, assistant general counsel, represented the department.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: State Health Plan

900 KAR 5:020 & E. State Health Plan for facilities and services. Diona Mullins, policy advisor, and Emily Parento, executive director, represented the cabinet.

Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:058. Operation and services; primary care center. Stephanie Brammer-Barnes, policy analyst, and Connie Payne, acting inspector general, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 3 to clarify requirements for the Quality Assurance Program. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Commissioner's Office: Division of Healthcare Facilities Management: Medicaid Services

907 KAR 1:180. Freestanding birth center services. Stuart Owen, regulation coordinator, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Sections 1 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.

907 KAR 1:190. Payments for freestanding birth center services.

A motion was made and seconded to approve the following amendments: 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.

The following administrative regulations were deferred to the January 13, 2014, meeting of the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:140 & E. Employer's administrative duties. Jennifer Jones, assistant general counsel; Christopher Tapia, staff attorney; and Brian C. Thomas, general counsel, represented the systems. David Leighty, attorney, represented the Kentucky Fraternal Order of Police and appeared in opposition to this administrative regulation.

In response to questions by Co-Chair Harris, Mr. Thomas stated that the agency amendment deleted the prohibition to classify an employee as a temporary or probationary employee more than one (1) time. A statutory amendment would be required to amend requirements pertaining to spiking to allow overtime for emergency situations and for emergency-related agencies to remain immune to actuarial costs associated with the last five (5) years of employment prior to employee retirement.

Mr. Leighty stated that the Kentucky Fraternal Order of Police (FOP) was concerned that requirements for actuarial costs to be covered by an agency with employees who acquired overtime in the last five (5) years prior to retirement would be difficult to enforce and would potentially harm public safety. He stated that the statute did not intend for the requirement to apply to emergency situations and emergency-related agencies because the statute exempted "bona fide" compensation. Including emergency situations and emergency-related agencies was an unintended consequence, which the Kentucky FOP believed could be remedied by amending this administrative regulation to clarify the statutory intent. It would be nearly impossible to determine which employees intended to retire within five (5) years and, if it even was possible, it may constitute age discrimination to limit overtime for those employees. As a result, agencies would probably limit overtime for all employees. Such an amendment to exempt public emergencies and joint task force exercises would be more protective of public safety. The Kentucky FOP respectfully requested that the subcommittee find this administrative regulation deficient if such an amendment was not added.

In response to questions by Representative Damron, Mr. Thomas stated that the statutory spiking provisions did not affect individual employees, but agencies with employees who are retiring. The last employment agency of a retired person was required to pay actuarial costs to cover retirement liability, except for bona fide advancement or employment change. This requirement would help cover some of the pension fund's unfunded liability. If a soon-to-leave employee changed jobs during the last five (5) years of employment, it was possible that an agency would be required to assume the costs incurred at the previous agency because the costs would be to the last employment agency. Ms. Jones stated that the systems would follow up with data regarding specific cases and actuarial cost estimates. Mr. Tapia explained that actual costs would vary greatly on a case-by-case basis using the formula. Representative Damron stated that he was uncomfortable allowing this administrative regulation to progress until the data was submitted. He stated that a few thousand dollars of overtime could create tens of thousands of dollars in actuarial obligation. Co-Chair Bell stated that he too would prefer that this administrative regulation be deferred until the fiscal impact information was reviewed by the Subcommittee.

In response to a question by Representative Lee, staff read the statutory definition for "bona fide" from KRS 61.598.

In response to a question by Senator Bowen, Mr. Leighty stated that, because overtime was paid at 150% of standard salary, the ten (10) percent threshold was easy to reach with even a single serious emergency.

In response to questions by Co-Chair Bell, Mr. Leighty stated that an employer may try to avoid these actuarial costs by not appropriately staffing for emergency and related situations. This could lead to a reduction of public safety. Mr. Leighty stated that, as a retiree, he was concerned about protecting the pension system, but believed that this administrative regulation would

incentivize agencies to short staff crucial programs. Mr. Thomas stated that the term "bona fide" was defined by statute and did not include overtime. The definition only included professional advancement or a change in employment status. For this administrative regulation to include overtime, a statutory amendment would first be required.

A motion was made and seconded to approve the following amendments: (1) to delete Section 1(9)(b), which prohibited an employer in the County Employees Retirement System from classifying an employee as temporary or probationary more than one (1) time; and (2) to add Section 8(13), which stated that an employer who is required to pay the additional actuarial cost pursuant to KRS 61.598 shall be treated as a participating employer in the system to which the employer is required to pay the additional actuarial cost solely for purposes of making the required payment. Without objection, and with agreement of the agency, the amendments were approved.

In response to a question by Representative Lee, Mr. Thomas agreed to defer consideration of this administrative regulation as amended to the January 2014 meeting of the Subcommittee. Without objection, and with agreement of the agency, this administrative regulation as amended was deferred.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Office of Consumer and Environmental Protection: Division of Environmental Services: Livestock

302 KAR 21:001. Definitions for 302 KAR Chapter 21. Clint Quarles, attorney, and Dr. Robert Stout, state veterinarian, represented the division.

In response to questions by Co-Chair Bell, Mr. Quarles stated that the subject matter committee staff review stated that these administrative regulations did not conform to KRS 257.196 because the standards were vague. However, these administrative regulations did conform because the statute required minimum, rather than comprehensive, standards. There were multiple techniques for the various practices authorized by these administrative regulations, and these administrative regulations did not characterize all possible techniques; however, the regulated community was always obligated by statute to use a technique that is the least traumatic for the animal involved.

In response to a question by Senator Gregory, Mr. Quarles stated that the division's intent in the definition for "soring" was that a chemical agent used on an equine had to be intentionally used to create an abrasion. Senator Gregory expressed concern that the intent was not clearly elaborated in the definition. She requested an amendment to clarify that intentionality was a requirement. The division agreed to the amendment.

In response to questions by Co-Chair Bell, Mr. Quarles stated that the division had remained in open dialogue with all stakeholders during the promulgation process of these administrative regulations. While the division did not amend these administrative regulations in response to public comments, each comment was taken into consideration. The division did not feel the need to further define commonly used terms and believed that further specification would cause these administrative regulations to be in conflict with the statutory mandate for minimum standards. If more specification was needed in the future, the division was willing to amend these administrative regulations as needed after they had become effective. Mr. Quarles stated that the division was staffed by livestock experts who had no intention of overstepping appropriate rights of the agricultural industry. Co-Chair Bell stated that the standard of "sufficient to maintain" established in these administrative regulations seemed vague and difficult to enforce. Protecting the rights of farmers was paramount, and it was not in a farmer's best interest to provide insufficient care to livestock.

In response to a question by Representative Lee, Mr. Quarles stated that these administrative regulations were results driven, and it was unnecessary to provide the specific requirements, which would vary on a case-by-case basis. The federal guidelines were fairly commensurate in terms of specificity.

In response to a question by Senator Bowen, Mr. Quarles stated that the agricultural industry was unanimous in support of these administrative regulations. Dr. Stout stated that

these administrative regulations were developed minimally to ensure that the requirements were not overburdensome.

A motion was made and seconded to approve the following amendments: to amend the definition for "soring" to clarify that a chemical agent shall be applied intentionally to create an equine abrasion. Without objection, and with agreement of the agency, the amendments were approved.

In response to a question by Representative Damron, Dr. Stout stated that, while the commission needed to approve all substantive amendments, he did not consider Senator Gregory's amendment to be substantive as it aligned with formatting to the USDA definition. He agreed to consult with the commission about the amendments to 302 KAR 21:001.

In response to a question by Representative Turner, Mr. Quarles agreed to defer consideration of these administrative regulations to the January 2014 meeting of the Subcommittee. Without objection, and with agreement of the agency, these administrative regulations were deferred.

302 KAR 21:020. General livestock and poultry provisions.

302 KAR 21:030. Beef cattle, bison, and veal specific provisions.

302 KAR 21:040. Dairy cattle specific provisions.

302 KAR 21:050. Equine specific provisions.

302 KAR 21:060. Swine specific provisions.

A motion was made and seconded to approve the following amendment: to add Section 3 to incorporate by reference the Pork Quality Assurance Guidelines. Without objection, and with agreement of the agency, the amendment was approved prior to the deferral.

302 KAR 21:070. Ovine, caprine, camelid and cervid specific provisions.

302 KAR 21:080. Poultry specific provisions.

Office of Agricultural Marketing and Product Promotion: Organic Agricultural Product Certification

302 KAR 40:010. Certification of organic production, processing, or handling operations.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Education: Kentucky Board of Education: Office of Learning Support Services

704 KAR 7:151. Repeal of 704 KAR 7:150.

The Subcommittee adjourned at 3:10 p.m. until January 13, 2014 at 1 p.m.

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.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Meeting of November 20, 2013

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Health and Welfare for its meeting of November 20, 2013, having been referred to the Committee on November 6, 2013, pursuant to KRS 13A.290(6):

201 KAR 6:020
201 KAR 6:030
201 KAR 6:040
201 KAR 6:050
201 KAR 6:060
201 KAR 6:070
201 KAR 6:080
201 KAR 6:090
900 KAR 10:010 & E
900 KAR 10:020
900 KAR 10:050 & E
906 KAR 1:190

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

900 KAR 10:010 & E
900 KAR 10:020
900 KAR 10:050 & E
906 KAR 1:190

There was no reason stated for finding the administrative regulations deficient.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the November 20, 2013 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

G - 2

The Locator Index lists all administrative regulations published in VOLUME 40 of the *Administrative Register of Kentucky* from July 2013 through June 2014. 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 39 are those administrative regulations that were originally published in VOLUME 39 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2013 Kentucky Administrative Regulations Service* was published.

KRS Index

G - 12

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 40 of the *Administrative Register of Kentucky*.

Technical Amendment Index

G - 20

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the *2013 Kentucky Administrative Regulations Service*. 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 of Kentucky*.

Subject Index

G - 21

The Subject Index is a general index of administrative regulations published in VOLUME 40 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	39 Ky.R. Page No.	Effective Date	Regulation Number	39 Ky.R. Page No.	Effective Date
VOLUME 39					
The administrative regulations listed under VOLUME 39 are those administrative regulations that were originally published in Volume 39 (last year's) issues of the Administrative Register but had not yet gone into effect when the 12 bound Volumes were published.					
SYMBOL KEY:			101 KAR 2:076		
* Statement of Consideration not filed by deadline			Amended	2361	(See 40 Ky.R.)
** Withdrawn before being printed in Register			101 KAR 2:095		
**** Emergency expired after 180 days			Amended	2362	(See 40 Ky.R.)
‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))			101 KAR 2:102		
(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.			Amended	2365	(See 40 Ky.R.)
			101 KAR 3:015		
			Amended	2370	(See 40 Ky.R.)
			101 KAR 3:050		
			Amended	2375	(See 40 Ky.R.)
			201 KAR 2:020		
			Amended	2377	9-6-13
			201 KAR 2:030		
			Amended	2378	9-6-13
			201 KAR 2:074		
			Amended	1753	
			Amended	2175	
			As Amended	2312	6-19-13
			201 KAR 18:040		
			Amended	2380	9-6-13
			201 KAR 18:072		
			Amended	2382	9-6-13
			201 KAR 18:142		
			Amended	2383	(See 40 Ky.R.)
			201 KAR 20:057		
			Amended	2191	(See 40 Ky.R.)
			201 KAR 20:059		
			Amended	2046	
			As Amended	2314	6-19-13
			201 KAR 20:070		
			Amended	2194	(See 40 Ky.R.)
			201 KAR 20:085		
			Amended	2196	7-17-2013
			201 KAR 20:110		
			Amended	2197	7-17-2013
			201 KAR 20:400		
			Amended	2047	(See 40 Ky.R.)
			201 KAR 20:500		
			Amended	2049	
			As Amended	2315	6-19-13
			201 KAR 31:010		
			Amended	2386	(See 40 Ky.R.)
			201 KAR 31:020		
			Amended	2387	10-4-13
			201 KAR 31:040		
			Amended	2388	(See 40 Ky.R.)
			201 KAR 31:050		
			Amended	2390	(See 40 Ky.R.)
			201 KAR 31:060		
			Amended	2391	(See 40 Ky.R.)
			201 KAR 31:080		
			Amended	2393	(See 40 Ky.R.)
			201 KAR 31:090		
			Amended	2395	(See 40 Ky.R.)
			202 KAR 7:330		
			Amended	2050	(See 40 Ky.R.)
			202 KAR 7:520		
			Amended	2056	(See 40 Ky.R.)
			202 KAR 7:540		
			Amended	2092	(See 40 Ky.R.)
			301 KAR 1:015		
			Amended	2199	8-2-13
			301 KAR 1:122		
			Amended	2201	(See 40 Ky.R.)
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.)					
103 KAR 3:040	1862	1-15-13			
301 KAR 2:195E	1574	12-28-12			
900 KAR 10:010E	2296	5-13-13			
907 KAR 1:055E	1987	3-1-13			
Replaced	299	9-6-13			
907 KAR 1:056E(r)	1993	3-1-13			
Expires		8-28-13			
907 KAR 1:711E	1587	12-21-12			
Expired		6-19-13			
907 KAR 3:015E	2112	4-3-13			
907 KAR 3:225E	2301	5-8-13			
Replaced	844	11-1-13			
907 KAR 3:230E	2306	5-8-13			
Replaced	848	11-1-13			
907 KAR 17:005E	1589	12-21-12			
Replaced	2322	6-5-13			
907 KAR 17:010E	1610	12-21-12			
Replaced	2343	6-5-13			
907 KAR 17:015E	1620	12-21-12			
907 KAR 17:020E	1625	12-21-12			
Replaced	2353	6-5-13			
907 KAR 17:025E	1630	12-21-12			
Replaced	2356	6-5-13			
907 KAR 17:030E	1635	12-21-12			
Replaced	1846	6-5-13			
921 KAR 2:015E	1639	12-21-12			
Replaced	1813	6-19-13			
921 KAR 3:090E	2115	3-28-13			
922 KAR 1:130E	2117	3-28-13			
Replaced	550	9-18-13			
922 KAR 1:140E	2122	3-28-13			
Replaced	554	9-18-13			
922 KAR 1:320E	2126	3-28-13			
Replaced	556	9-18-13			
922 KAR 1:400E	2130	3-28-13			
Replaced	559	9-18-13			
922 KAR 2:090E	2134	3-27-13			
Replaced	305	9-18-13			
922 KAR 2:160E	2140	3-27-13			
Replaced	571	9-18-13			
ORDINARY ADMINISTRATIVE REGULATIONS:					
17 KAR 3:010					
Amended	1897				
As Amended	2310	7-5-13			
17 KAR 3:040	1963	7-5-13			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	39 Ky.R. Page No.	Effective Date	Regulation Number	39 Ky.R. Page No.	Effective Date
301 KAR 2:049 Amended	2061	6-6-13	902 KAR 30:200 Amended	2428	10-16-13
301 KAR 2:122 Amended	2064	6-6-13	902 KAR 55:110 Amended	629	
301 KAR 2:251 Amended	2397	(See 40 Ky.R.)	Amended	1218	
401 KAR 10:030 Amended	584		As Amended	1413	
Withdrawn	‡	11-19-13	As Amended	2033	
401 KAR 5:320	2094	(See 40 Ky.R.)	906 KAR 1:160 Amended	335	
501 KAR 6:070 Amended	1949		As Amended	632	
As Amended	2316	7-5-13	Amended	1221	
503 KAR 1:170 Amended	2066		907 KAR 1:055 Amended	2084	(See 40 Ky.R.)
As Amended	2317	7-5-13	Repealed	2448	9-6-13
505 KAR 1:160 Amended	1952		907 KAR 1:071(r)	2448	9-6-13
As Amended	2173		907 KAR 1:072 Repealed	2448	9-6-13
601 KAR 9:135 Amended	1953		907 KAR 1:090 Repealed	2448	9-6-13
702 KAR 3:130 Amended	1321		907 KAR 1:092 Repealed	2448	9-6-13
Amended	1891		907 KAR 1:320 Repealed	2448	9-6-13
As Amended	2173		907 KAR 10:017 Repealed	2448	
702 KAR 4:160 Amended	2073	(See 40 Ky.R.)	907 KAR 10:372 Repealed	2448	
703 KAR 5:121(r) Withdrawn	2098	6-11-13	907 KAR 10:376 Repealed	2448	
703 KAR 5:250 Withdrawn	2099	6-11-13	907 KAR 1:563 Amended	2434	(See 40 Ky.R.)
787 KAR 1:010 Amended	2400	9-6-13	907 KAR 1:595 Amended	2438	
787 KAR 1:290 Amended	2401	9-6-13	907 KAR 3:225	2449	(See 40 Ky.R.)
804 KAR 9:040 Amended	1958		907 KAR 3:230	2454	(See 40 Ky.R.)
Amended	2178		907 KAR 3:015	2284	(See 40 Ky.R.)
Withdrawn		7-10-13	907 KAR 17:005 Amended	1792	
804 KAR 9:050 Amended	1961	(See 40 Ky.R.)	As Amended	2322	9-19-13
815 KAR 4:027 As Amended	1970		907 KAR 17:010 Amended	1822	
815 KAR 7:120 Amended	1506	(See 40 Ky.R.)	As Amended	2181	
815 KAR 20:020 Amended	2203	8-2-13	907 KAR 17:015 As Amended	2343	6-27-13
815 KAR 20:034 Amended	2208	(See 40 Ky.R.)	As Amended	1831	
815 KAR 20:120 Amended	2210	8-2-13	907 KAR 17:020 As Amended	2350	6-27-13
900 KAR 5:020 Amended	1322		907 KAR 17:025 As Amended	1836	6-27-13
Amended	1895		907 KAR 17:030 As Amended	2353	6-27-13
As Amended	2174		907 KAR 17:030 As Amended	1841	6-27-13
900 KAR 10:010	2443	(See 40 Ky.R.)	907 KAR 17:030 As Amended	2356	6-27-13
902 KAR 30:001 Amended	2403	(See 40 Ky.R.)	907 KAR 17:030 As Amended	1846	6-27-13
902 KAR 30:120 Amended	2410	(See 40 Ky.R.)	921 KAR 2:015 Amended	1813	6-19-13
902 KAR 30:130 Amended	2413	(See 40 Ky.R.)	921 KAR 3:090 Amended	2218	(See 40 Ky.R.)
902 KAR 30:150 Amended	2419	10-16-13	922 KAR 1:130 Amended	2220	(See 40 Ky.R.)
902 KAR 30:160 Amended	2422	10-16-13	922 KAR 1:140 Amended	2225	(See 40 Ky.R.)
902 KAR 30:180 Amended	2425	(See 40 Ky.R.)	922 KAR 1:320 Amended	2228	(See 40 Ky.R.)
		10-16-13	922 KAR 1:400 Amended	2233	(See 40 Ky.R.)
			922 KAR 2:020 Amended	2236	(See 40 Ky.R.)
			922 KAR 2:090 Amended	2241	(See 40 Ky.R.)
			922 KAR 2:100 Amended	2247	(See 40 Ky.R.)

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922 KAR 2:110 Amended	2256	(See 40 Ky.R.)
922 KAR 2:120 Amended	2261	(See 40 Ky.R.)
922 KAR 2:160 Amended	2269	(See 40 Ky.R.)
922 KAR 2:180 Amended	2278	

SYMBOL KEY:

* Statement of Consideration not filed by deadline
 ** Withdrawn before being printed in Register
 ‡ Withdrawn deferred more than twelve months (KRS 13A.300(4) and 13A.315(1)(d))
 (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

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SYMBOL KEY:

* Statement of Consideration not filed by deadline
 ** 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.)

30 KAR 5:010E	219	6-28-2013
Replaced	775	11-1-13
30 KAR 5:020E	220	6-28-2013
Replaced	775	11-1-13
30 KAR 5:030E	223	6-28-2013
Replaced	777	11-1-13
30 KAR 5:040E	225	6-28-2013
Replaced	777	11-1-13
30 KAR 5:050E	228	6-28-2013
Replaced	780	11-1-13
30 KAR 5:060E	230	6-28-2013
Replaced	781	11-1-13
31 KAR 4:070E	755	9-4-2013
101 KAR 2:210E	756	9-9-2013
105 KAR 1:140E	233	7-01-2013
201 KAR 22:055E	4	5-15-2013
Withdrawn		9-17-2013
201 KAR 30:315E	935	10-10-2013
301 KAR 2:221E	1232	10-21-2013
301 KAR 2:222E	1234	10-21-2013
301 KAR 2:225E	524	8-14-2013
Replaced	1045	11-7-13
405 KAR 10:001E	236	7-03-2013
405 KAR 10:070E	240	7-03-2013
Replaced	1065	11-7-13
405 KAR 10:080E	243	7-03-2013
Replaced	1066	11-7-13
405 KAR 10:090E	245	7-03-2013
Replaced	1067	11-7-13
405 KAR 10:201E	246	7-03-2013
Repealer		11-7-2013
501 KAR 6:020E	759	8-20-2013
505 KAR 1:170E	936	10-14-2013
804 KAR 4:390E	5	6-14-2013
804 KAR 4:400E	247	6-25-2013
Replaced	811	11-1-13
804 KAR 4:410E	249	6-25-2013
Replaced	811	11-1-13
804 KAR 4:430E	7	6-14-2013
815 KAR 4:030E	250	6-25-2013
Replaced	824	10-23-13

815 KAR 4:040E	253	6-25-2013
Replaced	825	10-23-13
900 KAR 5:020E	761	8-30-2013
900 KAR 10:020E	8	6-07-2013
900 KAR 10:030E	762	8-22-2013
900 KAR 10:050E	255	7-10-2013
907 KAR 20:001E	938	9-30-2013
907 KAR 20:005E	944	9-30-2013
907 KAR 20:010E	952	9-30-2013
907 KAR 20:015E	956	9-30-2013
907 KAR 20:020E	959	9-30-2013
907 KAR 20:025E	964	9-30-2013
907 KAR 20:030E	969	9-30-2013
907 KAR 20:035E	974	9-30-2013
907 KAR 20:040E	979	9-30-2013
907 KAR 20:045E	983	9-30-2013
907 KAR 20:050E	986	9-30-2013
907 KAR 20:060E	990	9-30-2013
907 KAR 20:075E	993	9-30-2013
907 KAR 20:100E	997	9-30-2013
921 KAR 2:015E	1238	11-14-2013
921 KAR 3:090E	1245	10-30-2013

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11 KAR 3:100		
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11 KAR 5:001		
Amended	72	
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11 KAR 5:140		
Amended	75	9-9-13
11 KAR 5:145		
Amended	76	9-9-13
11 KAR 8:030		
Amended	78	
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11 KAR 15:020		
Amended	1129	
11 KAR 15:040		
Amended	82	
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11 KAR 15:090		
Amended	84	9-9-13
Amended	1313	
11 KAR 16:001		
Amended	88	9-9-13
11 KAR 16:010		
Amended	90	9-9-13
11 KAR 16:040		
Amended	92	9-9-13
11 KAR 16:050		
Amended	94	9-9-13
11 KAR 16:060		
Amended	95	9-9-13
12 KAR 1:116		

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Amended	97	10-9-13	As Amended	265	9-6-13
12 KAR 1:135			101 KAR 3:050		(See 39 Ky.R.)
Amended	98		As Amended	269	9-6-13
As Amended	770	10-9-13	103 KAR 2:005		
12 KAR 1:140			Amended	355	
Amended	100		As Amended	782	11-1-13
Amended	580		103 KAR 16:230		
As Amended	770	10-9-13	Amended	357	
12 KAR 1:145			As Amended	784	11-1-13
Amended	101		103 KAR 41:120		
As Amended	771	10-9-13	Amended	359	
12 KAR 1:150			As Amended	785	11-1-13
Amended	103		103 KAR 41:200	476	
As Amended	772	10-9-13	As Amended	785	11-1-13
12 KAR 1:155			105 KAR 1:140		
Amended	104		Amended	360	
As Amended	772	10-9-13	Amended	1090	
12 KAR 1:165			201 KAR 6:020		
Amended	106		Amended	628	
As Amended	774	10-9-13	As Amended	1016	11-20-13
13 KAR 1:020			201 KAR 6:030		
Amended	334		Amended	629	
Amended	854		As Amended	1017	11-20-13
As Amended	1004	12-6-13	201 KAR 6:040		
13 KAR 3:010			Amended	631	
Amended	879		As Amended	1017	11-20-13
As Amended	1248		201 KAR 6:050		
13 KAR 3:050			Amended	632	
Amended	880		As Amended	1018	11-20-13
As Amended	1393		201 KAR 6:060		
16 KAR 3:080			Amended	633	
Amended	621		As Amended	1019	11-20-13
As Amended	1011	12-6-13	201 KAR 6:070		
16 KAR 5:020			Amended	635	
Amended	1318		As Amended	1019	11-20-13
16 KAR 6:010			201 KAR 6:080		
Amended	1320		Amended	637	
16 KAR 9:080			As Amended	1021	11-20-13
Amended	623		201 KAR 6:090		
As Amended	1012	12-6-13	Amended	639	
30 KAR 5:010			As Amended	1022	11-20-13
Amended	342		201 KAR 9:016		
As Amended	775	11-1-13	Amended	108	
30 KAR 5:020			As Amended	785	10-16-13
Amended	343		201 KAR 9:081		
As Amended	775	11-1-13	Amended	1130	
30 KAR 5:030			As Amended	1393	
Amended	346		201 KAR 11:220		
As Amended	777	11-1-13	Amended	365	
30 KAR 5:040			As Amended	787	11-1-13
Amended	348		201 KAR 12:020		
As Amended	777	11-1-13	Amended	367	
30 KAR 5:050			As Amended	1023	12-6-13
Amended	351		201 KAR 12:040		
As Amended	780	11-1-13	Amended	368	
30 KAR 5:060			As Amended	1024	12-6-13
Amended	353		201 KAR 12:045		
As Amended	781	11-1-13	Amended	369	
31 KAR 4:070			As Amended	1024	12-6-13
Amended	882		201 KAR 12:050		
101 KAR 2:076		(See 39 Ky.R.)	Amended	371	
As Amended	259	9-6-13	As Amended	1025	12-6-13
101 KAR 2:095		(See 39 Ky.R.)	201 KAR 12:060		
As Amended	259	9-6-13	Amended	372	
101 KAR 2:102		(See 39 Ky.R.)	As Amended	1025	12-6-13
As Amended	261	9-6-13	201 KAR 12:065		
101 KAR 2:210			Amended	373	
Amended	884		As Amended	1026	12-6-13
101 KAR 3:015		(See 39 Ky.R.)	201 KAR 12:082		

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Amended	374		Amended	1344	
As Amended	1027	12-6-13	201 KAR 20:320		
201 KAR 12:083			Amended	1347	
Amended	378		201 KAR 20:390		
As Amended	1030	12-6-13	Amended	1349	
201 KAR 12:088			201 KAR 20:400		(See 39 Ky.R.)
Amended	379		Amended	23	
As Amended	1030	12-6-13	As Amended	272	
201 KAR 12:100			Withdrawn		8-21-13
Amended	382		201 KAR 20:411		
As Amended	1032	12-6-13	Amended	888	
201 KAR 12:101			Withdrawn		10-28-13
Amended	384		201 KAR 21:001	1508	
As Amended	1033	12-6-13	201 KAR 21:015		
201 KAR 12:120			Amended	1410	
Amended	386		201 KAR 21:041		
As Amended	1034	12-6-13	Amended	1411	
201 KAR 12:125			201 KAR 21:042	1509	
Amended	387		201 KAR 21:051		
As Amended	1035	12-6-13	Amended	1414	
201 KAR 12:150			201 KAR 21:052	1511	
Amended	389		201 KAR 21:053	1512	
As Amended	1036	12-6-13	201 KAR 21:054	1513	
201 KAR 12:176(r)	477	12-6-13	201 KAR 21:065		
201 KAR 12:180			Amended	1415	
Amended	390		201 KAR 21:075		
As Amended	1037	12-6-13	Amended	1417	
201 KAR 12:190			201 KAR 21:085		
Amended	392		Amended	1419	
As Amended	1037	12-6-13	201 KAR 21:095		
201 KAR 12:260			Amended	1421	
Amended	393		201 KAR 21:100		
As Amended	1038	12-6-13	Amended	1423	
201 KAR 12:270	478		201 KAR 22:045		
As Amended	1039	12-6-13	Amended	110	
201 KAR 17:012			As Amended	531	9-18-13
Amended	394	10-16-13	201 KAR 22:130		
201 KAR 17:030			Amended	112	9-18-13
Amended	395	10-16-13	201 KAR 22:220		
201 KAR 17:034			201 KAR 30:040		
Amended	397	10-16-13	Amended	113	
201 KAR 17:036			Amended	862	
Amended	399	10-16-13	As Amended	1039	12-6-13
201 KAR 18:020			201 KAR 30:120		
Amended	886		Amended	115	
As Amended	1248		As Amended	533	10-4-13
201 KAR 18:142		(See 39 Ky.R.)	201 KAR 30:125		
As Amended	270	9-6-13	Amended	117	
201 KAR 20:056			As Amended	534	10-4-13
Amended	1323		Amended	1424	
201 KAR 20:057		(See 39 Ky.R.)	201 KAR 30:150		
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201 KAR 20:061			As Amended	534	10-4-13
Amended	1326		201 KAR 30:200	182	
201 KAR 20:062			As Amended	536	10-4-13
Amended	1328		201 KAR 30:315	1198	
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As Amended	16	7-17-2013	201 KAR 30:321r	1514	
201 KAR 20:240			201 KAR 30:360		
Amended	1333		Amended	120	
201 KAR 20:260			Withdrawn		9-13-13
Amended	1335		201 KAR 30:375		
201 KAR 20:270			Amended	1426	
Amended	1338		201 KAR 31:010		(See 39 Ky.R.)
201 KAR 20:280			As Amended	536	10-4-13
Amended	1340		201 KAR 31:040		(See 39 Ky.R.)
201 KAR 20:290			As Amended	537	10-4-13
Amended	1342		201 KAR 31:050		(See 39 Ky.R.)
201 KAR 20:310			As Amended	537	10-4-13

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201 KAR 31:060		(See 39 Ky.R.)	As Amended	17	8-2-13
As Amended	538	10-4-13	301 KAR 1:130		
201 KAR 31:080		(See 39 Ky.R.)	Amended	642	
As Amended	540	10-4-13	Amended	1094	
201 KAR 31:090		(See 39 Ky.R.)	As Amended	1249	
As Amended	540	10-4-13	301 KAR 1:132		
201 KAR 34:020			Amended	644	
Amended	1427		As Amended	1040	11-7-13
201 KAR 34:025	1515		301 KAR 1:150		
201 KAR 34:030			Amended	400	
Amended	1428		As Amended	792	10-3-13
201 KAR 34:040			301 KAR 1:152		
Amended	1431		Amended	647	
201 KAR 37:010			As Amended	1041	11-7-13
Amended	1351		301 KAR 1:201		
201 KAR 39:040			Amended	402	
Amended			As Amended	793	10-3-13
As Amended	641		301 KAR 2:049		
201 KAR 43:010	1397		Amended	649	
Amended	122		As Amended	1042	11-7-13
As Amended	541	10-4-13	301 KAR 2:132		
201 KAR 45:001	183		Amended	407	
Amended	581		As Amended	797	10-3-13
As Amended	788	11-1-13	301 KAR 2:221		
201 KAR 45:070	184		Amended	1354	
Amended	582		301 KAR 2:222		
As Amended	789	11-1-13	Amended	1356	
201 KAR 45:100	185		301 KAR 2:225		
Amended	583	11-1-13	Amended	653	
201 KAR 45:110	187		As Amended	1045	11-7-13
Amended	584		301 KAR 2:251		(See 39 Ky.R.)
As Amended	789	11-1-13	As Amended	542	9-5-13
201 KAR 45:120	188		301 KAR 2:300		
Amended	586		Amended	412	
As Amended	789	11-1-13	As Amended	800	10-3-13
201 KAR 45:130	189		301 KAR 3:022		
Amended	587		Amended	655	
As Amended	790	11-1-13	Amended	1096	
201 KAR 45:140	191		As Amended	1250	
Amended	588	11-1-13	301 KAR 4:095		
201 KAR 45:150	192		As Amended	1252	
Amended	590		302 KAR 21:001	729	
As Amended	790	11-1-13	302 KAR 21:020	730	
201 KAR 45:160	194		302 KAR 21:030	732	
Amended	591		302 KAR 21:040	733	
As Amended	791	11-1-13	302 KAR 21:050	734	
201 KAR 46:010			302 KAR 21:060	736	
Recodified from 902 KAR 105:010		11-20-13	302 KAR 21:070	737	
201 KAR 46:015	1517		302 KAR 21:080	738	
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201 KAR 46:030			303 KAR 1:041		
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201 KAR 46:040			303 KAR 1:042(r)	739	
Recodified from 902 KAR 105:040		11-20-13	401 KAR 5:320		(See 39 Ky.R.)
201 KAR 46:070			Amended	33	
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201 KAR 46:081			401 KAR 102:005	903	
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201 KAR 46:090	1518		401 KAR 102:010	904	
202 KAR 7:330		(See 39 Ky.R.)	Amended	1302	
Amended	25		401 KAR 102:020	907	
As Amended	273	8-21-13	Amended	1304	
202 KAR 7:520		(See 39 Ky.R.)	405 KAR 8:010		
As Amended	278	8-21-13	Amended	415	
202 KAR 7:540		(See 39 Ky.R.)	As Amended	1046	11-7-13
Amended	30		405 KAR 10:001		
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301 KAR 1:122		(See 39 Ky.R.)	As Amended	1058	11-7-13

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As Amended	1061	11-7-13	702 KAR 1:115		
405 KAR 10:070	479		Amended	676	
As Amended	1065	11-7-13	Amended	1099	
405 KAR 10:080	482		As Amended	1260	
As Amended	1066	11-7-13	702 KAR 4:160		(See 39 Ky.R.)
405 KAR 10:090	483		Amended	38	
As Amended	1067	11-7-13	As Amended	286	9-6-13
405 KAR 10:200			702 KAR 6:101(r)	1201	
Repealed		11-7-13	702 KAR 7:065		
418 KAR 1:010			Amended	133	
Amended	123		Amended	594	
As Amended	802	10-3-13	As Amended	807	11-1-13
418 KAR 1:040			702 KAR 7:125		
Amended	125		Amended	1362	
As Amended	803	10-3-13	703 KAR 5:070		
418 KAR 1:050			Amended	1437	
Amended	127		703 KAR 5:080		
Amended	592		Amended	1439	
As Amended	803	10-3-13	704 KAR 3:035		
501 KAR 6:020			Amended	439	
Amended	890		Amended	1102	
As Amended	1398		As Amended	1261	
501 KAR 6:050			704 KAR 3:303		
Amended	658		Amended	136	
As Amended	1253		As Amended	809	11-1-13
501 KAR 6:070			704 KAR 3:305		
Amended	1433		Amended	1138	
501 KAR 6:110			Amended	1406	
Amended	660	12-6-13	704 KAR 3:390		
503 KAR 1:161(r)	485	11-1-13	Amended	678	
503 KAR 1:180			As Amended	1263	
Amended	662	12-6-13	704 KAR 7:151(r)	1202	
503 KAR 3:091(r)	486	11-1-13	739 KAR 2:080	195	
505 KAR 1:120			Amended	866	
Amended	1136		Withdrawn by agency		11-4-13
505 KAR 1:130			787 KAR 1:090		
Amended	1361		Amended	442	
505 KAR 1:170	1199		As Amended	809	10-23-13
601 KAR 1:147			803 KAR 2:300		
Amended	128	10-1-13	Amended	138	10-4-13
601 KAR 9:085			803 KAR 2:307		
Amended	1435		Amended	140	
601 KAR 9:200			As Amended	544	10-4-13
Amended	130		803 KAR 2:308		
Amended	863		Amended	142	10-4-13
As Amended	1067	12-6-13	803 KAR 2:314		
601 KAR 13:025			Amended	144	
Amended	436		As Amended	544	10-4-13
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605 KAR 1:050			Amended	146	10-4-13
Amended	664		803 KAR 2:400		
As Amended	1254		Amended	152	10-4-13
605 KAR 1:060			803 KAR 2:403		
Amended	665		Amended	154	10-4-13
Withdrawn by agency		11-6-13	803 KAR 2:404		
605 KAR 1:070			Amended	155	10-4-13
Amended	668		803 KAR 2:407		
As Amended	1255		Amended	157	
605 KAR 1:090			As Amended	545	10-4-13
Amended	669		803 KAR 2:411		
As Amended	1255		Amended	159	10-4-13
605 KAR 1:130			803 KAR 2:418		
Amended	670		Amended	161	10-4-13
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605 KAR 1:190			Amended	163	
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Amended	166	10-4-13	As Amended	820	10-18-13
803 KAR 50:010			807 KAR 5:069		
Amended	1440		Amended	700	
804 KAR 1:100			As Amended	1282	
Amended	892		807 KAR 5:075	488	
As Amended	1266		As Amended	822	10-18-13
804 KAR 1:110			807 KAR 5:076		
Amended	1448		Amended	704	
804 KAR 4:031 (r)	197	10-4-13	Amended	1123	
804 KAR 4:020			811 KAR 1:215		
Repealed	197	10-4-13	Amended	709	
804 KAR 4:030			As Amended	1069	12-6-13
Repealed	197	10-4-13	811 KAR 1:220		
804 KAR 4:130			Amended	714	
Repealed	197	10-4-13	As Amended	1073	12-6-13
804 KAR 4:140			815 KAR 4:030		
Repealed	197	10-4-13	Amended	461	
804 KAR 4:160			As Amended	824	10-23-13
Repealed	197	10-4-13	815 KAR 4:040		
804 KAR 4:170			Amended	463	
Repealed	197	10-4-13	As Amended	825	10-23-13
804 KAR 4:180			815 KAR 7:120		(See 39 Ky.R.)
Repealed	197	10-4-13	As Amended	17	8-2-13
804 KAR 4:200			815 KAR 7:125		
Repealed	197	10-4-13	Amended	173	
804 KAR 4:220			As Amended	546	9-25-13
Repealed	197	10-4-13	815 KAR 8:050		
804 KAR 4:250			Amended	1453	
Amended	168		815 KAR 20:034		(See 39 Ky.R.)
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Amended	170	10-4-13	Amended	1455	
804 KAR 4:400			820 KAR 1:005		
Amended	444		Amended	1459	
As Amended	811	11-1-13	820 KAR 1:015		
Amended	1450		Amended	1460	
804 KAR 4:410			820 KAR 1:016		
Amended	446		Amended	1462	
As Amended	811	11-1-13	820 KAR 1:025		
Amended	1452		Amended	1465	
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SYMBOL KEY:

* Statement of Consideration not filed by deadline

** Withdrawn, not in effect within 1 year of publication

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