

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 41, NUMBER 10
WEDNESDAY, APRIL 1, 2015

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, March 13, 2015.

ARRS – APRIL 14, 2015 TENTATIVE AGENDA	2059
REGULATION REVIEW PROCEDURE	2061

EMERGENCIES

Council on Postsecondary Education.....	2062
---	------

AS AMENDED

Personnel Board.....	2067
Finance and Administration Cabinet	2068
Board of Nursing.....	2070
Board of Licensure for Occupational Therapy.....	2073
Real Estate Appraisers Board.....	2084
Department of Fish and Wildlife Resources	2087
Department of Agriculture.....	2090
Department of Corrections.....	2090

AMENDED AFTER COMMENTS

Department of Fish and Wildlife Resources	2092
Transportation Cabinet.....	2095

PROPOSED AMENDMENTS

Kentucky Higher Education Assistance Authority.....	2099
Council on Postsecondary Education.....	2108
Personnel Cabinet.....	2113
Board of Landscape Architects	2131
Board of Prosthetics, Orthotics and Pedorthics.....	2132
CHFS: Office of Inspector General	2133
CHFS: Department for Medicaid Services	2136
CHFS: Department for Aging and Independent Living.....	2138
CHFS: Department for Community Based Services.....	2177

NEW ADMINISTRATIVE REGULATIONS

Department for Alcoholic Beverage Control	2180
CHFS: Department for Medicaid Services	2181

ARRS Report	2191
OTHER COMMITTEE REPORTS	2194

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates	J - 2
KRS Index.....	J - 13
Technical Amendments.....	J - 23
Subject Index	J - 24

MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet April 14, 2015, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **2059 - 2060** 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 41, Kentucky Register, page 318 (short form: 41 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)

© 2015 Legislative Research Commission, All Rights Reserved

The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, 700 Capitol Avenue, Room 300, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$120 (plus 6% Kentucky sales tax) per year for 12 issues, beginning in July and ending with the June issue of the subsequent year. Periodical postage paid at Frankfort, Kentucky. POSTMASTER: Send address changes to Administrative Register of Kentucky, 700 Capitol Avenue, Room 64, State Capitol, Frankfort, Kentucky 40601.

KENTUCKY LEGISLATIVE RESEARCH COMMISSION

Chairmen

Senator Robert Stivers
Senate President

Representative Gregory D. Stumbo
House Speaker

Senate and House Members

Senator David P. Givens
President Pro Tempore

Representative Jody Richards
Speaker Pro Tempore

Senator Damon Thayer
Majority Floor Leader

Representative Rocky Adkins
Majority Floor Leader

Senator Ray Jones
Minority Floor Leader

Representative Jeffrey Hoover
Minority Floor Leader

Senator Daniel Seum
Majority Caucus Chair

Representative Sannie Overly
Majority Caucus Chair

Senator Gerald Neal
Minority Caucus Chair

Representative Stan Lee
Minority Caucus Chair

Senator Jimmy Higdon
Majority Whip

Representative Johnny Bell
Majority Whip

Senator Julian Carroll
Minority Whip

Representative Jim DeCesare
Minority Whip

Marcia Seiler, Acting Director
Joe Cox, Printing and Publications Officer

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

Senator Ernie Harris, Co-Chair
Representative Mary Lou Marzian, Co-Chair
Senator Julie Raque Adams
Senator Perry B. Clark
Senator Alice Kerr
Representative Denny Butler
Representative Will Coursey
Representative Tommy Turner

Staff

Donna Little
Emily Caudill
Sarah Amburgey
Emily Harkenrider
Karen Howard
Carrie Klaber
Angela Bertholf
Betsy Cupp

VOLUME 41, NUMBER 10 – APRIL 1, 2015

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, APRIL 14, 2015, at 1:00 p.m., Room 149 Capitol Annex**

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Property Valuation**

Forms

- 103 KAR 3:030 & E. Property and Severance Forms manual. ("E" expires 7/15/2015)
- 103 KAR 3:040 & E. Income Tax Forms Manual. ("E" expires 6/29/2015)(Deferred from March)

**GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners**

Board

- 201 KAR 21:090 & E. Prechiropractic education requirements. ("E" expires 8/9/2015)

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

Game

- 301 KAR 2:132. Elk quota hunts, elk depredation permits, landowner cooperators permits, and voucher cooperators permits. (Not Amended After Comments)
- 301 KAR 2:172. Deer hunting seasons, zones, and requirements. (Amended After Comments)
- 301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas. (Not Amended After Comments)

**DEPARTMENT OF AGRICULTURE
Office of State Veterinarian
Division of Animal Health**

Livestock Sanitation

- 302 KAR 20:110. Treatment of imported mares.
- 302 KAR 20:120. Treatment of imported stallions.

**TRANSPORTATION CABINET
Department of Highways
Division of Maintenance**

Billboards

- 603 KAR 10:001. Definitions. (Amended After Comments) (Deferred from May)
- 603 KAR 10:010. Static advertising devices. (Amended After Comments) (Deferred from May)
- 603 KAR 10:020. Electronic advertising devices. (Amended After Comments) (Deferred from May)
- 603 KAR 10:030. Removal of vegetation related to advertising devices. (Amended After Comments) (Deferred from May)

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
Department of Education**

School Administration and Finance

- 702 KAR 3:320. Finance officer certification requirements. (Amended After Comments)(Deferred from March)

Instructional Programs

- 705 KAR 4:250. Energy technology engineering career pathway. (Amended After Comments)(Deferred from January)

LABOR CABINET

Labor Standards; Wages and Hours

- 803 KAR 1:035. Hearing procedure.

**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Electrical Division**

Electrical

- 815 KAR 35:072. Certification of low-voltage installers.

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy**

Data Reporting and Public Use Data Sets

- 900 KAR 7:030 & E. Data reporting by health care providers. ("E" expires 6/29/2015)(Deferred from March)

**Department for Public Health
Division of Maternal and Child Health**

Maternal and Child Health

- 902 KAR 4:041. Repeal of 902 KAR 4:040.

**Department for Medicaid Services
Division of Provider Operations**

Payment and Services

- 907 KAR 3:017 & E. Enhanced reimbursement for preventive and wellness services. ("E" expires 6/29/2015) (Deferred from March)

VOLUME 41, NUMBER 10 – APRIL 1, 2015

**Department for Community Based Services
Division of Family Support**

K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. ("E" expires 6/28/2015) (Deferred from March)

Supplemental Nutrition Assistance Program

921 KAR 3:060. Administrative disqualification hearings and penalties. (Not Amended After Comments)

REMOVED FROM APRIL AGENDA:

**JUSTICE AND PUBLIC SAFETY CABINET
Parole Board**

Board

501 KAR 1:080. Parole Board policies and procedures. (Comments Received)

Department of Corrections

Office of the Secretary

501 KAR 6:020. Corrections policies and procedures. (Comments Received, SOC ext.)

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers**

Motor Carriers

601 KAR 1:112 & E. Transportation network company. ("E" expires 7/1/2015) (Amended After Comments)(Deferred from April)

**Office of the Secretary
Kentucky Bicycle and Bikeways Commission**

Motorcycle and Bicycle Safety

601 KAR 14:020. Bicycle safety standards. (Not Amended After Comments) (Deferred from June)

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care**

Health Services and Facilities

902 KAR 20:091. Facilities specifications, operation and services; community mental health center.(Comments Received, SOC ext.)

902 KAR 20:400. Limited services clinics. (Comments Received, SOC ext.)

**Department for Medicaid Services
Division of Community Alternatives**

Medicaid Services

907 KAR 1:044. Coverage provisions and requirements regarding community mental health center behavioral health services. (Comments Received, SOC ext.)

907 KAR 1:045 & E. Reimbursement provisions and requirements regarding community mental health center services. ("E" expires 8/1/2015) (Comments Received, SOC ext.)

907 KAR 1:046. Community mental health center primary care services. (Comments Received, SOC ext.)

907 KAR 1:102. Advanced practice registered nurse services. (Comments Received, SOC ext.)

Division of Policy and Operations

Hospital Service Coverage and Reimbursement

~~907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement. (Amended After Comments) (Deferred from April 2014)(Withdrawn by agency, March 16, 2015)~~

**Department for Behavioral Health, Developmental and Intellectual Disabilities
Division for Behavioral Health**

Mental Health

908 KAR 2:220 & E. Adult peer support specialist. ("E" expires 8/8/2015) (Comments Received, SOC ext.)

908 KAR 2:230 & E. Kentucky family peer support specialist. ("E" expires 8/8/2015) (Comments Received, SOC ext.)

908 KAR 2:260 & E. Targeted case manager: eligibility and training. ("E" expires 8/8/2015) (Comments Received, SOC ext.)

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

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing and comment period information, regulatory impact analysis and tiering statement, fiscal note, federal mandate comparison, and incorporated material information. Those administrative regulations received by the deadline established in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing and Public Comment Period

The administrative body shall schedule a public hearing on proposed administrative regulations which shall not be held before the 21st day or later than the last workday of the month of publication. Written comments shall also be accepted until the end of the calendar month in which the administrative regulation was published.

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

The administrative body shall notify the Compiler, by phone and letter, whether the hearing was held or cancelled and whether written comments were received. If the hearing was held or written comments were received, the administrative body shall file a statement of consideration with the Compiler by the fifteenth day of the calendar month following the month of publication.

A transcript of the hearing is not required unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

Review Procedure

After the public hearing and public comment period processes are completed, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or 30 days after being referred by LRC, whichever occurs first.

EMERGENCY ADMINISTRATIVE REGULATIONS

STATEMENT OF EMERGENCY
13 KAR 2:045E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the above cited administrative regulation should be amended on an emergency basis in order to prevent the loss of federal funds by Kentucky's public postsecondary institutions and their students. In August 2014, President Obama signed into law the Veterans Access, Choice and Accountability Act of 2014. Section 702 of the Act requires public institutions to charge in-state tuition to veterans serving at least ninety (90) days who enroll within three (3) years of discharge from active duty, as well as certain individuals who receive federal education benefits through those veterans. If institutions are not able to comply with this requirement by July 1, 2015, the Veteran's Administration (VA) will disapprove them for all Montgomery and Post-9/11 GI Bill educational assistance. It is necessary to promulgate this administrative regulation on an emergency basis to ensure that Kentucky meets the July 1, 2015 deadline for compliance. This will enable students and schools to make decisions now with regards to accepting admission and securing funding for terms that begin after July 1, 2015. Institutions must submit funding draw certifications to the VA far in advance of the term attended, and the VA will not distribute funds for terms beginning after July 1, 2015 until Kentucky is in compliance. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation. +

STEVEN L. BESHEAR, Governor
GLENN DENTON, Chair

COUNCIL ON POSTSECONDARY EDUCATION
(Emergency Amendment)

13 KAR 2:045E. Determination of residency status for admission and tuition assessment purposes.

RELATES TO: KRS Chapter 13B, 164.020, 164.030, 164A.330(6)

STATUTORY AUTHORITY: KRS 164.020(8)

EFFECTIVE: March 2, 2015

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents. This administrative regulation establishes the procedure and guidelines for determining the residency status of a student who is seeking admission to, or who is enrolled at, a state-supported postsecondary education institution.

Section 1. Definitions. (1) "Academic term" means a division of the school year during which a course of studies is offered, and includes a semester, quarter, or single consolidated summer term as defined by the institution.

(2) "Continuous enrollment" means enrollment in a state-supported postsecondary education institution at the same degree level for consecutive terms, excluding summer term, since the beginning of the period for which continuous enrollment is claimed unless a sequence of continuous enrollment is broken due to extenuating circumstances beyond the student's control, including serious personal illness or injury, or illness or death of a parent.

(3) "Degree level" means enrollment in a course or program that could result in the award of a:

(a) Certificate, diploma, or other program award at an institution;

(b) Baccalaureate degree or lower, including enrollment in a course by a nondegree-seeking postbaccalaureate student;

(c) Graduate degree or graduate certification other than a first-

professional degree in law, medicine, dentistry, or "Pharm. D"; or

(d) Professional degree in law, medicine, dentistry, or "Pharm. D".

(4) "Dependent person" means a person who cannot demonstrate financial independence from parents or persons other than a spouse and who does not meet the criteria for independence established in Section 5 of this administrative regulation.

(5) "Determination of residency status" means the decision of a postsecondary education institution that may include a formal hearing that results in the classification of a person as a Kentucky resident or as a nonresident for admission and tuition assessment purposes.

(6) "Domicile" means a person's true, fixed, and permanent home and is the place where the person intends to remain indefinitely, and to which the person expects to return if absent without intending to establish a new domicile elsewhere.

(7) "Full-time employment" means continuous employment for at least forty-eight (48) weeks at an average of at least thirty (30) hours per week.

(8) "Independent person" means a person who demonstrates financial independence from parents or persons other than a spouse and who meets the criteria for independence established in Section 5 of this administrative regulation.

(9) "Institution" means an entity defined by KRS 164.001(12) if the type of institution is not expressly stated and includes the Kentucky Virtual University, the Council on Postsecondary Education, and the Kentucky Higher Education Assistance Authority.

(10) "Kentucky resident" means a person determined by an institution for tuition purpose to be domiciled in and a resident of Kentucky as determined by this administrative regulation.

(11) "Nonresident" means a person who:

(a) Is domiciled outside[by] Kentucky;

(b) Currently maintains legal residence outside Kentucky; or

(c) Is not a Kentucky resident as determined by this administrative regulation.

(12) "Parent" means one (1) of the following:

(a) A person's father or mother; or

(b) A court-appointed legal guardian if:

1. The guardianship is recognized by an appropriate court within the United States;

2. There was a relinquishment of the rights of the parents; and

3. The guardianship was not established primarily to confer Kentucky residency on the person.

(13) "Preponderance of the evidence" means the greater weight of evidence or evidence that is more credible and convincing to the mind.

(14) "Residence" means the place of abode of a person and the place where the person is physically present most of the time for a noneducational purpose in accordance with Section 3 of this administrative regulation.

(15) "Student financial aid" means all forms of payments to a student if one (1) condition of receiving the payment is the enrollment of the student at an institution, and includes student employment by the institution or a graduate assistantship.

(16) "Sustenance" means living expenses including room, board, maintenance, transportation, and educational expenses including tuition, fees, books, and supplies.

Section 2. Scope. (1) State-supported postsecondary education institutions were established and are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents of Kentucky. The substantial commitment of public resources to postsecondary education is predicated on the proposition that the state benefits significantly from the existence of an educated citizenry. As a matter of policy, access to postsecondary education shall be provided so far as feasible at reasonable cost to a qualified individual who is domiciled in Kentucky and who is a resident of Kentucky.

(2) The Council on Postsecondary Education may require a

student who is neither domiciled in nor a resident of Kentucky to meet higher admission standards and to pay a higher level of tuition than resident students.

(3) This administrative regulation shall apply to all student residency determinations regardless of circumstances, including residency determinations made by the state-supported institutions for prospective and currently-enrolled students; the Southern Regional Education Board for contract spaces; reciprocity agreements, if appropriate; the Kentucky Virtual University; academic common market programs; the Kentucky Educational Excellence Scholarship Program; and other state student financial aid programs, as appropriate.

Section 3. Determination of Residency Status; General Rules.

(1) A determination of residency shall include:

(a) An initial determination of residency status by an institution during the admission process or upon enrollment in an institution for a specific academic term or for admission into a specific academic program;

(b) A reconsideration of a determination of residency status by an institution based upon a changed circumstance; or

(c) A formal hearing conducted by an institution upon request of a student after other administrative procedures have been completed.

(2) An initial determination of residency status shall be based upon:

(a) The facts in existence when the credentials established by an institution for admission for a specific academic term have been received and during the period of review by the institution;

(b) Information derived from admissions materials;

(c) If applicable, other materials required by an institution and consistent with this administrative regulation; and

(d) Other information available to the institution from any source.

(3) An individual seeking a determination of Kentucky residency status shall demonstrate that status by a preponderance of the evidence.

(4) A determination of residency status shall be based upon verifiable circumstances or actions.

(5) Evidence and information cited as the basis for Kentucky domicile and residency shall accompany the application for a determination of residency status.

(6) A student classified as a nonresident shall retain that status until the student is officially reclassified by an institution.

(7) A student may apply for a review of a determination of residency status once for each academic term.

(8) If an institution has information that a student's residency status may be incorrect, the institution shall review and determine the student's correct residency status.

(9) If the Council on Postsecondary Education has information that an institution's determination of residency status for a student may be incorrect, it may require the institution to review the circumstances and report the results of that review.

(10) An institution shall impose a penalty or sanction against a student who gives incorrect or misleading information to an institutional official, including payment of nonresident tuition for each academic term for which resident tuition was assessed based on an improper determination of residency status. The penalty or sanction may also include:

(a) Student discipline by the institution through a policy written and disseminated to students; or

(b) Criminal prosecution.

Section 4. Presumptions Regarding Residency Status. (1) In making a determination of residency status, it shall be presumed that a person is a nonresident if:

(a) A person is, or seeks to be, an undergraduate student and admissions records show the student to be a graduate of an out-of-state high school within five (5) years prior to a request for a determination of residency status;

(b) A person's admissions records indicate the student's residence to be outside of Kentucky at the time of application for admission;

(c) A person moves to Kentucky primarily for the purpose of enrollment in an institution;

(d) A person moves to Kentucky and within twelve (12) months enrolls at an institution more than half time;

(e) A person has a continuous absence of one (1) year from Kentucky; or

(f) A person attended an out-of-state higher education institution during the past academic year and paid in-state tuition at that institution.

(2) A presumption arising from subsection (1) of this section shall only be overcome by preponderance of evidence sufficient to demonstrate that a person is domiciled in and is a resident of Kentucky.

Section 5. Determination of Whether a Student is Dependent or Independent. (1) In a determination of residency status, an institution shall first determine whether a student is dependent or independent. This provision is predicated on the assumption that a dependent person lacks the financial ability to live independently of the person upon whom the student is dependent and therefore lacks the ability to form the requisite intent to establish domicile. A determination that a student is independent shall be one (1) step in the overall determination of whether a student is or is not a resident of Kentucky.

(2) In determining the dependent or independent status of a person, the following information shall be considered as well as other relevant information available at the time the determination is made:

(a) 1. Whether the person has been claimed as a dependent on the federal or state tax returns of a parent or other person for the year preceding the date of application for a determination of residency status; or

2. Whether the person is no longer claimed by a parent or other person as a dependent or as an exemption for federal and state tax purposes; and

(b) Whether the person has financial earnings and resources independent of a person other than an independent spouse necessary to provide for the person's own sustenance.

(3) An individual who enrolls at an institution immediately following graduation from high school and remains enrolled shall be presumed to be a dependent person unless the contrary is evident from the information submitted.

(4) Domicile may be inferred from the student's permanent address, parent's mailing address, or location of high school of graduation.

(5) Marriage to an independent person domiciled in and who is a resident of Kentucky shall be a factor considered by an institution in determining whether a student is dependent or independent.

(6) Financial assistance from or a loan made by a parent or family member other than an independent spouse, if used for sustenance of the student:

(a) Shall not be considered in establishing a student as independent; and

(b) Shall be a factor in establishing that a student is dependent.

Section 6. Effect of a Determination of Dependent Status on a Determination of Residency Status. (1) The effect of a determination that a person is dependent shall be:

(a) The domicile and residency of a dependent person shall be the same as either parent. The domicile and residency of the parent shall be determined in the same manner as the domicile and residency of an independent person; and

(b) The domicile and residency of a dependent person whose parents are divorced, separated, or otherwise living apart shall be Kentucky if either parent is domiciled in and is a resident of Kentucky regardless of which parent has legal custody or is entitled to claim that person as a dependent pursuant to federal or Kentucky income tax provisions.

(2) If the parent or parents of a dependent person are Kentucky residents and are domiciled in Kentucky but subsequently move from the state:

(a) The dependent person shall be considered a resident of Kentucky while in continuous enrollment at the degree level in

VOLUME 41, NUMBER 10 – APRIL 1, 2015

which currently enrolled; and

(b) The dependent person's residency status shall be reassessed if continuous enrollment is broken or the current degree level is completed.

Section 7. Member or Former Member of Armed Forces of the United States, Spouse and Dependents; Effect on a Determination of Residency Status. (1) A member, spouse, or dependent of a member whose domicile and residency was Kentucky at the time of induction into the Armed Forces of the United States, and who maintains Kentucky as home of record and permanent address, shall be entitled to Kentucky residency status:

(a) During the member's time of active service; or

(b) If the member returns to this state within six (6) months of the date of the member's discharge from active duty.

(2)(a) A member of the armed services on active duty for more than thirty (30) days and who has a permanent duty station in Kentucky shall be classified as a Kentucky resident and shall be entitled to in-state tuition as shall the spouse or a dependent child of the member.

(b) A member, spouse, or dependent of a member shall not lose Kentucky residency status if the member is transferred on military orders while the member, spouse, or dependent requesting the status is in continuous enrollment at the degree level in which currently enrolled.

(3)(a) Membership in the National Guard or civilian employment at a military base alone shall not qualify a person for Kentucky residency status under the provisions of subsections (1) and (2) of this section. If a member of the Kentucky National Guard is on active duty status for a period of not less than thirty (30) days, the member shall be considered a Kentucky resident, as shall the spouse of a dependent child of the member.

(4) A person eligible for benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. 3301 et seq.) or any other federal law authorizing educational benefits for veterans shall be entitled to Kentucky resident status.

(5) A person's residency status established pursuant to this section shall be reassessed if the qualifying condition is terminated.

Section 8. Status of Nonresident Aliens; Visas and Immigration. (1)(a) A person holding a permanent residency visa or classified as a political refugee shall establish domicile and residency in the same manner as another person.

(b) Time spent in Kentucky and progress made in fulfilling the conditions of domicile and residency prior to obtaining permanent residency status shall be considered in establishing Kentucky domicile and residency.

(2) A person holding a nonimmigrant visa with designation A, E, G, H-1, H-4 if accompanying a person with an H-1 visa, I, K, L, N, R, shall establish domicile and residency the same as another person.

(3)(a) An independent person holding a nonimmigrant visa with designation B, C, D, F, H-2, H-3, H-4 if accompanying a person with an H-2 or H-3 visa, J, M, O, P, Q, S, TD, or TN shall not be classified as a Kentucky resident, because that person does not have the capacity to remain in Kentucky indefinitely and therefore cannot form the requisite intent necessary to establish domicile as defined in Section 1(6) of this administrative regulation.

(b) A dependent person holding a visa as described in paragraph (a) of this subsection, but who is a dependent of a parent holding a visa as described in subsection (2) of this section, shall be considered as holding the visa of the parent.

(c) A dependent person holding a visa described in subsection (2) of this section or paragraph (a) of this subsection, if a parent is a citizen of the United States and is a resident of and domiciled in Kentucky, shall be a resident of Kentucky for the purposes of this administrative regulation.

(4) A person shall be a Kentucky resident for the purpose of this administrative regulation if the person graduated from a Kentucky high school and:

(a) Is an undocumented alien;

(b) Holds a visa listed in subsections (2) or (3)(a) of this

section; or

(c) Is a dependent of a person who holds a visa listed in subsections (2) or (3)(a) of this section.

(5)(a) Except as provided in paragraph (b) of this subsection, a person who has petitioned the federal government to reclassify visa status shall continue to be ineligible until the petition has been decided by the federal government.

(b) A person who has petitioned the federal government to reclassify his or her visa status based on marriage to a Kentucky resident and who can demonstrate that the petition has been filed and acknowledged by the federal government, may establish Kentucky domicile and residency at that time.

Section 9. Beneficiaries of a Kentucky Educational Savings Plan Trust. A beneficiary of a Kentucky Educational Savings Plan Trust shall be granted residency status if the beneficiary meets the requirements of KRS 164A.330(6).

Section 10. Criteria Used in a Determination of Residency Status. (1)(a) A determination of Kentucky domicile and residency shall be based upon verifiable circumstances or actions.

(b) A single fact shall not be paramount, and each situation shall be evaluated to identify those facts essential to the determination of domicile and residency.

(c) A person shall not be determined to be a Kentucky resident by the performance of an act that is incidental to fulfilling an educational purpose or by an act performed as a matter of convenience.

(d) Mere physical presence in Kentucky, including living with a relative or friend, shall not be sufficient evidence of domicile and residency.

(e) A student or prospective student shall respond to all requests for information regarding domicile or residency requested by an institution.

(2) The following facts, although not conclusive, shall have probative value in their entirety and shall be individually weighted, appropriate to the facts and circumstances in each determination of residency:

(a) Acceptance of an offer of full-time employment or transfer to an employer in Kentucky or contiguous area while maintaining residence and domicile in Kentucky;

(b) Continuous physical presence in Kentucky while in a nonstudent status for the twelve (12) months immediately preceding the start of the academic term for which a classification of Kentucky residency is sought;

(c)1. Filing a Kentucky resident income tax return for the calendar year preceding the date of application for a change in residency status; or

2. Payment of Kentucky withholding taxes while employed during the calendar year for which a change in classification is sought;

(d) Full-time employment of at least one (1) year while living in Kentucky;

(e) Attendance as a full-time, nonresident student at an out-of-state institution based on a determination by that school that the person is a resident of Kentucky;

(f) Abandonment of a former domicile or residence and establishing domicile and residency in Kentucky with application to or attendance at an institution following and incidental to the change in domicile and residency;

(g) Obtaining licensing or certification for a professional and occupational purpose in Kentucky;

(h) Payment of real property taxes in Kentucky;

(i) Ownership of real property in Kentucky, if the property was used by the student as a residence preceding the date of application for a determination of residency status;

(j) Marriage of an independent student to a person who was domiciled in and a resident of Kentucky prior to the marriage; and

(k) The extent to which a student is dependent on student financial aid in order to provide basic sustenance.

(3) Except as provided in subsection (4) of this section, the following facts, because of the ease and convenience in completing them, shall have limited probative value in a

VOLUME 41, NUMBER 10 – APRIL 1, 2015

determination that a person is domiciled in and is a resident of Kentucky:

- (a) Kentucky automobile registration;
 - (b) Kentucky driver's license;
 - (c) Registration as a Kentucky voter;
 - (d) Long-term lease of at least twelve (12) consecutive months of noncollegiate housing; and
 - (e) Continued presence in Kentucky during academic breaks.
- (4) The absence of a fact contained in subsection (3) of this section shall have significant probative value in determining that a student is not domiciled in or is not a resident of Kentucky.

Section 11. Effect of a Change in Circumstances on Residency Status. (1) If a person becomes independent or if the residency status of a parent or parents of a dependent person changes, an institution shall reassess residency either upon a request by the student or a review initiated by the institution.

(2) Upon transfer to a Kentucky institution, a student's residency status shall be assessed by the receiving institution.

(3) A reconsideration of a determination of residency status for a dependent person shall be subject to the provisions for continuous enrollment, if applicable.

Section 12. Student Responsibilities. (1) A student shall report under the proper residency classification, which includes the following actions:

- (a) Raising a question concerning residency classification;
- (b) Making application for change of residency classification with the designated office or person at the institution; and
- (c) Notifying the designated office or person at the institution immediately upon a change in residency.

(2) If a student fails to notify an institutional official of a change in residency, an institutional official may investigate and evaluate the student's residency status.

(3)(a) If a student fails to provide, by the date specified by the institution, information required by an institution in a determination of residency status, the student shall be notified by the institution that the review has been canceled and that a determination has been made.

(b) Notification shall be made by registered mail, return receipt requested.

(c) Notification shall be made within ten (10) calendar days after the deadline for receipt of materials has passed.

(4)(a) The formal hearing conducted by an institution and the final recommended order shall be a final administrative action with no appeal to the Council on Postsecondary Education.

(b) A formal administrative hearing conducted by the Council on Postsecondary Education for residency determinations related to eligibility for the Academic Common Market and Regional Contract Programs shall be conducted pursuant to the provisions of KRS Chapter 13B and 13 KAR 2:070. The recommended order issued by the President of the Council shall be a final administrative action.

(5) A student shall not be entitled to appeal a determination of residency status if the determination made by an institution is because a student has failed to meet published deadlines for the submission of information as set forth in subsection (3) of this section. A student may request a review of a determination of residency status in a subsequent academic term.

Section 13. Institutional Responsibilities. Each institution shall:

(1) Provide for an administrative appeals process that includes a residency appeals officer to consider student appeals of an initial residency determination and which shall include a provision of fourteen (14) days for the student to appeal the residency appeals officer's determination;

(2) Establish a residency review committee to consider appeals of residency determinations by the residency appeals officer. The residency review committee shall make a determination of student residency status and notify the student in writing within forty-five (45) days after receipt of the student appeal;

(3) Establish a formal hearing process as described in Section 14 of this administrative regulation; and

(4) Establish written policies and procedures for administering the responsibilities established in subsections (1), (2), and (3) of this section and that are:

- (a) Approved by the institution's governing board;
- (b) Made available to all students; and
- (c) Filed with the council.

Section 14. Formal Institutional Hearing. (1) A student who appeals a determination of residency by a residency review committee shall be granted a formal hearing by an institution if the request is made by a student in writing within fourteen (14) calendar days after notification of a determination by a residency review committee.

(2) If a request for a formal hearing is received, an institution shall appoint a hearing officer to conduct a formal hearing. The hearing officer shall:

(a) Be a person not involved in determinations of residency at an institution except for formal hearings; and

(b) Not be an employee in the same organizational unit as the residency appeals officer.

(3) An institution shall have written procedures for the conduct of a formal hearing that have been adopted by the board of trustees or regents, as appropriate, and that provide for:

(a) A hearing officer to make a recommendation on a residency appeal;

(b) Guarantees of due process to a student that include:

1. The right of a student to be represented by legal counsel; and

2. The right of a student to present information and to present testimony and information in support of a claim of Kentucky residency; and

(c) A recommendation to be issued by the hearing officer.

(4) An institution's formal hearing procedures shall be filed with the Council on Postsecondary Education and shall be available to a student requesting a formal hearing.

Section 15. Cost of Formal Hearings. (1) An institution shall pay the cost for all residency determinations including the cost of a formal hearing.

(2) A student shall pay for the cost of all legal representation in support of the student's claim of residency.

GLENN DENTON, Chair

TRAVIS POWELL, General Counsel

APPROVED BY AGENCY: March 2, 2015

FILED WITH LRC: March 2, 2015 at 3 p.m.

CONTACT PERSON: Travis Powell, General Counsel and Assistant Vice President of Operations, 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Travis Powell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets the criteria for determining whether a student is, or is not, a Kentucky resident for the purpose of admissions to a state-supported institution, or for the purpose of assessing tuition.

(b) The necessity of this administrative regulation: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

KRS 164.020(29) empowers the Council to promulgate administrative regulations to carry out this and other duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the procedure and guidelines for determining the residency status of a student who is seeking admission to, or who is enrolled at, a state-supported postsecondary education 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: This amendment will allow a person eligible for benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. Section 3301 et seq.) or any other federal law authorizing educational benefits for veterans to be entitled to Kentucky resident status for purposes of admission and tuition at public postsecondary institutions in Kentucky.

(b) The necessity of the amendment to this administrative regulation: In August 2014, President Obama signed into law the Veterans Access, Choice and Accountability Act of 2014. Section 702 of the Act requires public institutions to charge in-state tuition to veterans serving at least ninety (90) days who enroll within three (3) years of discharge from active duty, as well as certain individuals who receive federal education benefits through those veterans. If institutions are not able to comply with this requirement by July 1, 2015, the Veteran's Administration (VA) will disapprove them for all Montgomery and Post-9/11 GI Bill educational assistance. As currently constituted, 13 KAR 2:045 would require covered individuals who do not otherwise meet the requirements for residency to be charged the out-of-state tuition rate. Therefore, the Council must amend 13 KAR 2:045 accordingly to ensure that students at Kentucky's public postsecondary institutions can continue to receive Montgomery and Post-9/11 GI Bill educational assistance.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms with the requirements of KRS 164.020(8) by further defining residency for purposes of tuition and admission. It conforms with Section 702 of the Veteran's Access, Choice and Accountability Act of 2014 by ensuring that the required class of individuals will be charged the in-state rate of tuition.

(d) How the amendment will assist in the effective administration of the statutes: The amendment ensures that public institutions are in compliance with federal law so their eligible students can continue receiving Post 9/11 and Montgomery GI Bill benefits.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects all public colleges and universities in Kentucky as well as all students attending those institutions.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, 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: Public institutions will need to verify that an applicant is eligible for the in-state tuition rate by obtaining his or her certification of eligibility from the Veterans Benefits Administration. Eligible applicants will need to obtain that certification and provide it to institution.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Cost of compliance will vary depending on the number of students in attendance that would have otherwise been required to pay the out-of-state rate. However, the potential loss of all Post 9/11 and Montgomery GI Bill funding would be much greater than what will be lost by charging the lower in-state rate to eligible individuals not already receiving the in-state rate.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): See 4(b) above.

(5) Provide an estimate of how much it will cost to implement

this administrative regulation:

(a) Initially: We estimate that there will be no additional cost in implementing the proposed changes to the regulation.

(b) On a continuing basis: We estimate that there will be no additional costs on a continuing basis to implement the proposed changes to the regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 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: No. Implementation of this amendment does not require an increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not applied. The requirements for determinations of residency in the regulation apply to all students applying to state postsecondary education institutions.

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? Public colleges and universities in Kentucky are impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.020 and Pub.L. 113-146 Veterans Access, Choice and Accountability Act (Section 702).

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? 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? Determinations of residency are done as part of the larger admissions process at public institutions in Kentucky. As such, it is difficult to pull this aspect out of the admission process and determine its cost of administration. While staff time and other resources are used to make residency determinations, they dictate how much an institution can charge an individual for tuition and are therefore necessary in order to collect those funds.

(d) How much will it cost to administer this program for subsequent years? See 3(c).

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: N/A

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

PERSONNEL BOARD
(As Amended at ARRS, March 10, 2015)

101 KAR 1:325 Probationary periods.

RELATES TO: KRS 18A.005, 18A.0751(1)(e), (4)(e); 18A.111
STATUTORY AUTHORITY: KRS 18A.005, 18A.075(1),
18A.0751(1)(e), (4)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075(1) requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751(1)(e) requires the Personnel Board to promulgate comprehensive administrative regulations for the classified service governing probation. KRS 18A.0751(4)(e) authorizes the Personnel Board to promulgate administrative regulations to establish an initial probationary period in excess of six (6) months for specific job classifications. ~~[KRS 18A.111 establishes requirements governing initial and promotional probationary periods for the classified service.]~~ This administrative regulation establishes the requirements relating to probationary periods.

Section 1. Initial Probationary Period. (1) The initial probationary period shall be computed from the effective date of appointment to the corresponding date in the sixth or final month, depending upon the length of initial probationary period, except as provided in KRS 18A.111.

(2) The following job classifications shall require an initial probationary period in excess of six (6) months:

Title Code	Job Classification	Length of Initial Probationary Period
20000562 [1555]	Resort Park Manager I	12 months
20000563 [1556]	Resort Park Manager II	12 months
20000564 [1557]	Resort Park Manager III	12 months
20000570 [1580]	Park Business Manager I	12 months
20000571 [1581]	Park Business Manager II	12 months
20000572 [1585]	Park Manager I/Historic Site Manager	12 months
20000573 [1586]	Park Manager II	12 months
20000574 [1588]	Park Manager III	12 months
20000609 [2001]	Conservation Officer Recruit	12 months
20000616	Veterans Benefits Field Rep I	9 months
20000618	Veterans Benefits Regional Administrator	9 months
20000638 [2201]	Correctional Officer	8 months
20000672 [2308]	Facilities Security Sergeant	12 months
20000673 [2309]	Facilities Security Lieutenant	12 months
20000676 [2313]	State Park Ranger Recruit	12 months
20000680 [2322]	Facilities Security Officer II	12 months
20000683 [2350]	Mounted Patrol Officer Recruit	12 months
20000687 [2401]	Police Telecommunicator I	12 months
20000688 [2403]	Police Telecommunicator II	12 months
20000689 [2404]	Police Telecommunications Shift Supervisor	12 months
20000690 [2405]	Police Telecommunications Supervisor	12 months
20000692 [2408]	CVE Inspector I	12 months
20000694 [2410]	CJIS (Criminal Justice Information System)	12 months

20000695 [2411]	Compliance Specialist I	
	CJIS Compliance Specialist II	12 months
20000696 [2412]	CJIS Compliance Specialist III	12 months
20000697 [2413]	CJIS Compliance Supervisor	12 months
20000698 [2415]	Transportation Operations Center Specialist I	12 months
20000703 [2433]	Polygraph Examiner II	12 months
20000704 [2434]	Polygraph Examiner I	12 months
20000713 [2460]	Driver's Test Administrator	12 months
20000716 [2468]	Fish and Wildlife Telecommunicator I	12 months
20000813 [3254]	Boiler Inspector I	12 months
20000820 [3268]	Fire Protection Systems Inspector	12 months
20000870 [3416]	Financial Institutions Examiner I	12 months
20000871 [3417]	Financial Institutions Examiner II	12 months
20000872 [3432]	Financial Institutions Examiner III	12 months
20000873 [3433]	Financial Institutions Examiner IV	12 months
20000874 [3434]	Financial Institutions Examiner Specialist	12 months
20000888 [3551]	Insurance Fraud Investigator II	12 months
20000889 [3552]	Insurance Fraud Investigator III	12 months
20000890 [3553]	Insurance Fraud Investigator Supervisor	12 months
20000938 [4056]	Forensic Firearms and Toolmark Examiner I	12 months
20000940 [4058]	Forensic Chemist I	12 months
20000941 [4059]	Forensic Chemist II	12 months
20000943 [4061]	Forensic Biologist I	12 months
20000944 [4062]	Forensic Biologist II	12 months
20000693 [4125]	Therapy Program Assistant	9 months
20000971 [4140]	Houseparent I	12 months
20000972 [4141]	Houseparent II	12 months
20000974 [4143]	Audiologist I	12 months
20001001 [4301]	Patient Aide I	9 months
20001037 [4550]	Medical Investigator I	12 months
20001038 [4551]	Medical Investigator II	12 months
20001077 [5120]	Student Development Associate	12 months
20001076 [5121]	Student Development Assistant	12 months
20001104 [5362]	KSB/KSD (Kentucky School for the Blind/Kentucky School for the Deaf) Administrator I	12 months
20001105 [5364]	KSB/KSD Administrator III	12 months
20001106 [5365]	KSB/KSD Administrator IV	12 months
20001107 [5366]	KSB/KSD Administrator V	12 months
20001108 [5367]	KSB/KSD Administrator VI	12 months
20001122 [6215]	Disability Adjudicator I	12 months
20001135 [6248]	Juvenile Facility Superintendent I	12 months
20001136 [6249]	Juvenile Facility Superintendent III	12 months
20001137 [6250]	Facilities Regional Administrator	12 months

VOLUME 41, NUMBER 10 – APRIL 1, 2015

<u>20001138</u> [6254]	Youth Services Program Supervisor	12 months
<u>20001139</u> [6252]	Juvenile Facility Superintendent II	12 months
<u>20001142</u> [6267]	Human Rights Specialist	12 months
<u>20001157</u> [6290]	Administrative Hearing Officer I	12 months
<u>20001159</u> [6292]	Human Rights Enforcement Branch Manager	12 months
<u>20001162</u> [6296]	Human Rights Research/Information Compliance Supervisor	12 months
<u>20001163</u> [6297]	Human Rights Housing Compliance Supervisor	12 months
<u>20001164</u> [6298]	Human Rights Employment/Public Accommodations Compliance Supervisor	12 months
<u>20001165</u> [6299]	Human Rights Compliance Enforcement Officer II	12 months
<u>20001166</u> [6304]	Probation and Parole Officer I	12 months
<u>20001171</u> [6404]	Youth Worker I	12 months
<u>20001174</u> [6404]	Youth Worker Supervisor	12 months
<u>20001175</u> [6410]	Juvenile Services District Supervisor	12 months
<u>20001480</u> [7213]	Forestry [District] Equipment Supervisor	12 months
<u>20001481</u> [7215]	Nursery Foreman	12 months
<u>20001482</u> [7217]	Nursery Superintendent	12 months
<u>20001483</u> [7222]	Forester	12 months
<u>20001484</u> [7224]	Forester Chief	12 months
<u>20001485</u> [7226]	Forester Regional [District]	12 months
<u>20001486</u> [7234]	Rural Fire Suppression Technical Advisor	12 months
<u>20001487</u> [7232]	Forestry Program Specialist	12 months
<u>20001488</u> [7235]	Forestry Program Manager	12 months
<u>20001489</u> [7236]	Forestry Program Supervisor	12 months
<u>20001492</u> [7250]	Forest Ranger Technician I	12 months
<u>20001493</u> [7254]	Forest Ranger Technician II	12 months
<u>20001494</u> [7252]	Forest Ranger Technician III	12 months
<u>20001495</u> [7253]	Forest Ranger Technician Regional [District]	12 months
[8326]	Right-of-way Agent I	[12 months]
<u>20001841</u> [9635]	Criminal Intelligence Analyst I	12 months
<u>20001842</u> [9636]	Criminal Intelligence Analyst II	12 months
<u>20001882</u> [9816]	Public Advocate Investigator I	12 months
<u>20001895</u> [9859]	Environmental Administrative Hearing Officer	12 months
<u>20001899</u> [9866]	Mitigation Specialist I	12 months
<u>20001904</u> [9885]	Investigator I	12 months

(3) If the length of the initial probationary period for a job classification is changed, an employee serving an initial probationary period on the effective date of the change shall serve the shorter of the initial probationary periods. When the employee is appointed, the employee's appointing authority shall advise the employee of the period of his initial probation.

Section 2. Promotional Probationary Period. (1) An employee who satisfactorily completes the promotional probationary period shall be granted status in the position to which he has been promoted. Unless an employee receives notice prior to the end of his promotional probationary period that he has failed to satisfactorily complete the promotional probationary period and that he is being reverted, the employee shall be deemed to have

served satisfactorily and shall acquire status in the position to which he has been promoted.

(2) An employee who fails to satisfactorily complete a promotional probationary period shall be reverted to his former position or to a position in the same job classification as his former position. A written notification shall be sent to the employee to advise the employee of the effective date of reversion. A copy of the notice of reversion shall be forwarded to the Secretary of Personnel on the same date notice is delivered to the employee.

(3) The promotional probationary period shall be computed from the effective date of promotion to the corresponding date in the appropriate month following promotion, as required by KRS 18A.005(27), except as provided in KRS 18A.111.

(4) The promotional probationary period shall be the same length as the initial probationary period for each job classification.

Section 3. Probationary Period Upon Reinstatement. (1) An employee who is reinstated, ~~except an employee ordered reinstated pursuant to KRS 18A.111(3),~~ to a position in the classified service no later than twelve (12) months after the beginning of a break in the classified service shall be reinstated with status. **This shall include an employee ordered reinstated pursuant to KRS 18A.111(3), unless the board rules otherwise.**

(2) An employee who is reinstated to the classified service more than twelve (12) months after a break in service, except an employee ordered reinstated pursuant to KRS 18A.111(3), shall serve an initial probationary period.

MARK A. SIPEK, Executive Director

APPROVED BY AGENCY: January 12, 2015

FILED WITH LRC: January 12, 2015 at 4 p.m.

CONTACT PERSON: Boyce A. Crocker, General Counsel, Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 564-1693.

**FINANCE AND ADMINISTRATION CABINET
Office of the Secretary
(As Amended at ARRS, March 10, 2015)**

200 KAR 15:010. Formula for allocation of private activity bonds.

RELATES TO: KRS 103.200(1)(k), (l), (m), (n), (2), 103.2101, 103.282, 103.286, **26 U.S.C. 146**, Pub.L. 111-5

STATUTORY AUTHORITY: KRS 103.286(3), 26 U.S.C. [sec.] 146

NECESSITY, FUNCTION, AND CONFORMITY: KRS 103.286(3) requires the Secretary of the Finance and Administration Cabinet to promulgate administrative regulations to provide for the allocation of the state ceiling for the issuance of private activity bonds. This administrative regulation establishes the formula for that allocation. This administrative regulation also establishes the Commonwealth's role in the allocation of volume cap received as a result of the American Recovery and Reinvestment Act of 2009, **Pub.L. 111-5**.

Section 1. Definitions. (1) "Affected bonds" means "private activity bonds" as defined by 26 U.S.C. sec. 146, excluding any obligations not subject to the state ceiling under the Code.

(2) "Allocation" means the amount of volume cap that was approved by the Kentucky Private Activity Bond Allocation Committee for a local issuer or state issuer.

(3) "ARRA" means the American Recovery and Reinvestment Act of 2009, Pub.L. 111-5.

(4) "Available volume cap" means the amount of unallocated volume cap remaining ~~[from the local issuer pool]~~ at the close of business on June 30.

(5) "Bonds" is defined by KRS 103.200(2).

(6) "Committee" means the Kentucky Private Activity Bond Allocation Committee.

(7) "Eligible volume cap applicants" means issuers and local issuers ~~[state issuers and local project applicants]~~ who file a notice

VOLUME 41, NUMBER 10 – APRIL 1, 2015

of intent to issue bonds relating to [available] volume cap.

(8) "Energy efficiency project" means a project meeting the requirements of KRS 103.282.

(9) "Energy efficiency project reserve" means the percentage of the state ceiling that shall be reserved for an energy efficiency project through June 30.

(10) "Issued" means delivered and paid for.

(11)[(9)] "Issuer" means the public or authorized governmental body which issues the bonds.

(12)[(10)] "Local issuer" means a public or authorized governmental body which issues bonds on behalf of a local project.

(13)[(11)] "Local issuer pool" means the portion of the state ceiling from which allocations for local projects are made to issuers of affected bonds issued on behalf or for the benefit of an entity which is not a state agency.

(14)[(12)] "Local project" means a project, other than a project for creation or financing of residential single family or multifamily affordable housing which are included under the "state projects", for which bonds are issued on behalf or for the benefit of an entity which is not a state agency.

(15)[(13)] "Lottery" means any process of random selection utilized to allocate available volume cap and which is conducted:

(a) By staff at a public meeting of the Committee; and

(b) In accordance with Section 4[3] of this administrative regulation.

(16)[(14)] "Staff" means the Office of Financial Management of the Finance and Administration Cabinet.

(17)[(15)] "State ceiling" means the cap imposed by 26 U.S.C. [sec.] 146 on private activity bonds issued within the Commonwealth of Kentucky.

(18)[(16)] "State project" means a project, including creation or financing of residential single family or multifamily affordable housing projects and student loans, for which bonds are issued by, on behalf, or for the benefit of a state agency.

(19)[(17)] "Year" means calendar year.

Section 2. Evaluation of Local Projects. Local projects seeking allocation from the state ceiling shall be allocated according to rankings based on the following factors:

(1) Creation of new jobs, as well as preservation of existing jobs, by the project;

(2) Average hourly wage and benefits of new employees proposed for the project;

(3) Capital investment in Kentucky being made as a result of the project;

(4) Unemployment rate in the county of the project;

(5) Any state economic development incentives awarded to the company; and

(6) Previous state ceiling allocated to the benefited borrower within the last ten (10) years.

Section 3. Evaluation of Energy Efficiency Projects. Energy efficiency projects seeking allocation from the state ceiling under the Energy Efficiency Project Reserve shall be allocated according to rankings based on the following factors:

(1) Annual energy savings associated with the project;

(2) Capital investment in Kentucky being made as a result of the project;

(3) Unemployment rate in the county of the project;

(4) Any state economic development incentives awarded to the company; and

(5) Previous state ceiling allocated to the benefited borrower within the last ten (10) years.

Section 4. Allocation of Available Volume Cap. (1) Allocations from the available volume cap shall be made to eligible volume cap applicants[in the local issuer pool,] as follows:

(a) First, a lottery shall be conducted to determine the order of disbursement to local projects which did not receive an allocation from the local issuer pool;

(b) Second, to the extent there is remaining available volume cap, a lottery shall be conducted to determine the order of disbursement to local projects which received an allocation from

the local issuer pool, whether the allocation was issued or not; and

(c) Finally, any remaining available volume cap shall be allocated by the committee to one (1) or more state issuers for use during the year or as carry forward.

(2) The committee shall choose a reasonable method of random selection for the lottery process.

Section 5[4]. Committee Meetings. The committee shall meet as necessary to allocate the state ceiling. Special meetings may be held on the call of the committee chairman.

Section 6[5]. An issuer shall obtain a confirmation authorizing the issuance of affected bonds by filing with the committee a written notice of intent to issue bonds, using the[~~bond~~] [(Notice of Intent" form)]. The committee shall issue a confirmation, using the [(Confirmation of Allocation of State Ceiling" form,)] allocating to the issuer a portion of the state ceiling. Affected bonds shall not be issued by any issuer prior to receiving confirmation by the committee of an allocation under the state ceiling. Confirmations shall be dated and numbered in the order issued.

Section 7[6]. Notice of Issuance ~~for~~ Local Projects and Energy Efficiency Projects. [Confirmation Effective for Ninety (90) Days.] A confirmation shall expire ninety (90) calendar days from the date of allocation by the committee, or December 15, whichever is earlier. The issuer shall deliver to the committee a notice that the affected bonds have been issued, using the [(Notice of Issuance" form)]. The notice of issuance may be sent by any means, but the committee shall receive it by the close of business on the 90th day after the confirmation. If the notice period ends on a Saturday, Sunday, or other day upon which state offices are closed for business, the notice period shall be extended to the next business day.

Section 8[7]. Notice of Issuance ~~for~~ State Projects. [Confirmation effective until December 15.] The issuer shall deliver to the committee a notice of issuance. The notice of issuance may be sent by any means, but the committee shall receive it by the close of business on or before December 15. If the notice period ends on a Saturday, Sunday, or other day upon which state offices are closed for business, the notice period shall be extended to the next business day.

Section 9[8]. Issuance of Bonds in Lesser Amounts than Confirmation. [Eighty-five (85) Percent Requirement.] A confirmation of affected bonds shall be effective if the issued amount of the bonds[~~issued in amounts less than the confirmation; if the face amount of the issued bonds~~] is not less than eighty-five (85) percent of the original confirmation. The issuer shall notify the committee if the bonds issued are within the eighty-five (85) percent requirement and the unused part of the allocation shall revert to the local issuer pool, or if this reversion occurs after June 30 of any year, the amount shall become available volume cap.

Section 10[9]. Carry Forward Allocations. (1) In any year, the committee shall allocate any remaining state ceiling as carry forward allocations if the aggregate amount of affected bonds issued during the year is less than the state ceiling on December 15th. An issuer shall, in order to receive a carry forward allocation, file with the committee by December 15th:

(a) A notice of intent; and

(b) A carry forward election of unused private activity bond volume cap, using [(U.S. Treasury Department Form 8328)].

(2) The carry forward of any unallocated portion of the state ceiling may be for any purpose authorized by 26 U.S.C. sec. 146(f).

(3) The committee shall issue a confirmation of the notice and election to carry forward, using the [(Confirmation of Carry Forward Allocation of State Ceiling" form)].

(4) The committee may ~~consider~~, but shall not be required to, allocate ~~it~~ a carry forward notice or election filed after December 15th.

Section 11[40]. The committee shall not confirm a notice of intent after the aggregate amount of bond confirmations, including carry forwards, have reached the state ceiling for that year.

Section 12[44]. Form and Manner. (1) ~~*The committee and issuer shall use the notice and confirmation forms incorporated by reference in Section 15 of this administrative regulation. The notice and confirmation forms required to be filed with and issued by the committee are incorporated by reference in Section 15*~~^[14]~~*[of this administrative regulation].*~~

(2) An issuer of a local project or energy efficiency project shall not:

(a) File a notice of intent unless the issuance will be made within the ninety (90) day confirmation period established in Section 7[6] of this administrative regulation; or

(b) Seek an allocation of the state ceiling in excess of the amount necessary to finance all costs of a local project.

(3) An issuer of a state project shall not:

(a) File a notice of intent unless the issuance will be made by December 15; or

(b) Seek allocation of the state ceiling in excess of the amount necessary to finance all costs of a state project.

Section 13[42]. Delegation of Functions. The committee shall review and allocate all requests for state ceiling. The committee shall not delegate authority to make allocations of the state ceiling to staff except if there are surplus or carry forward allocations. Any delegation of authority and the limit of that authority shall be recorded verbatim in the minutes of the committee meeting at which the delegation is made.

Section 14[43]. Volume Cap Allocations under ARRA. (1) ~~*Through the ARRA, the federal government has made and may continue to make allocations of volume cap to state and local governments for the issuance of bonds, such as has been made for Recovery Zone Bonds and Qualified Energy Conservation Bonds.*~~ If [the] federal regulations ~~*governing these allocations*~~ allocate volume cap directly to the Commonwealth or allow for transfer or waiver of any direct volume cap allocation to a local government back to the Commonwealth, the committee shall:

(a) Accept any notice of waiver of volume cap as authorized by the local governing body on behalf of the Commonwealth;

(b) Accept applications of eligible volume cap recipients consistent with federal regulation; and

(c) Rank each application and allocate volume cap based upon:

1. Any federally mandated standards and objectives; and
2. Expected value to the Commonwealth.

(2) Notice of Issuance. The issuer shall deliver to the committee a notice that the affected bonds have been issued within the time constraints established in the applicable federal regulation, if any.

Section 15[44]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Notice of Intent" application, December 2014[March 2006];

(b) "Confirmation of Allocation of State Ceiling", March 1998;

(c) "Confirmation of Carry-forward Allocation of State Ceiling", March 1998;

(d) "Notice of Issuance", March 1998; and

(e) "U.S. Treasury Department Form 8328".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Financial Management, 76 Capitol Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

LORI FLANERY, Secretary

APPROVED BY AGENCY: December 18, 2014

FILED WITH LRC: December 19, 2014 at noon

CONTACT PERSON: Doug Hendrix, Deputy General Counsel,
Finance and Administration Cabinet, 702 Capitol Avenue,
Frankfort, KY 40601, phone (502) 564-6660, fax (502) 564-9875.

GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended at ARRS, March 10, 2015)

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses.

RELATES TO: KRS 218A.205(3)(a), 314.011(7), 314.042, 314.193(2), ~~314.196~~^[314.396]

STATUTORY AUTHORITY: KRS 218A.205(3)(a), 314.131(1), 314.193(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.205(3)(a) requires the Board of Nursing to establish by administrative regulation mandatory prescribing and dispensing standards for licensees authorized to prescribe or dispense controlled substances. KRS 314.131(1) authorizes the board to promulgate administrative regulations necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.193(2) authorizes the board to promulgate administrative regulations establishing standards for the performance of advanced practice registered nursing to safeguard the public health and welfare. This administrative regulation establishes the scope and standards of practice for an advanced practice registered nurse.

Section 1. Definitions. (1) "Collaboration" means the relationship between the advanced practice registered nurse and a physician in the provision of prescription medication, including both autonomous and cooperative decision-making, with the advanced practice registered nurse and the physician contributing their respective expertise.

(2) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" or "CAPA-CS" means the written document pursuant to KRS 314.042(10).

(3) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" or "CAPA-NS" means the written document pursuant to KRS 314.042(8).

Section 2. (1) The practice of the advanced practice registered nurse shall be in accordance with the standards and functions defined in scope and standards of practice statements adopted by the board in subsection (2) of this section.

(2) The following scope and standards of practice statements shall be adopted:

(a) AAACN Scope and Standards for Acute Care Nurse Practitioner Practice;

(b) AAACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice;

(c) Neonatal Nursing: Scope and Standards of Practice;

(d) Nursing: Scope and Standards of Practice;

(e) Pediatric Nursing: Scope and Standards of Practice;

(f) Psychiatric-Mental Health Nursing 2nd Edition[Practice]: Scope and Standards of Practice;

(g) Scope of Practice for Nurse Practitioners;

(h) Standards of Practice for Nurse Practitioners;

(i) Scope of Nurse Anesthesia Practice;

(j) Standards for Nurse Anesthesia Practice;

(k) Standards for Office Based Anesthesia Practice;

(l) Standards for the Practice of Midwifery;

(m) Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice; and

(n) The Women's Health Nurse Practitioner: Guidelines for Practice and Education[Scope and Standards of Psychiatric-Mental Health Nursing Practice;

(b) Nursing: Scope and Standards of Practice;

(c) Standards for Office-Based Anesthesia Practice;

(d) Standards for Nurse Anesthesia Practice;

(e) Scope of Nurse Anesthesia Practice;

(f) Standards for the Practice of Midwifery;

(g) The Women's Health Nurse Practitioner: Guidelines for

VOLUME 41, NUMBER 10 – APRIL 1, 2015

Practice and Education;

- ~~(h) Pediatric Nursing: Scope and Standards of Practice;~~
- ~~(i) Standards of Practice for Nurse Practitioners;~~
- ~~(j) Scope of Practice for Nurse Practitioners;~~
- ~~(k) AACN Scope and Standards for Acute Care Nurse Practitioner Practice;~~
- ~~(l) Neonatal Nursing: Scope and Standards of Practice;~~
- ~~(m) AACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice; and~~
- ~~(n) Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice].~~

Section 3. In the performance of advanced practice registered nursing, the advanced practice registered nurse shall seek consultation or referral in those situations outside the advanced practice registered nurse's scope of practice.

Section 4. Advanced practice registered nursing shall include prescribing medications and ordering treatments, devices, and diagnostic tests which are consistent with the scope and standard of practice of the advanced practice registered nurse.

Section 5. Advanced practice registered nursing shall not preclude the practice by the advanced practice registered nurse of registered nursing practice as defined in KRS 314.011 ~~(6)~~ ~~(5)~~.

Section 6. (1) A CAPA-NS and a CAPA-CS shall include the name, address, phone number, and license number of both the advanced practice registered nurse and each physician who is a party to the agreement. It shall also include the specialty area of practice of the advanced practice registered nurse.

(2)(a) To notify the board of the existence of a CAPA-NS pursuant to KRS 314.042(8)(b), the APRN shall file with the board the Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs (CAPA-NS).

(b) To notify the board that the requirements of KRS 314.042(9) have been met and that the APRN will be prescribing nonscheduled legend drugs without a CAPA-NS, the APRN shall file the Notification to Discontinue the CAPA-NS After Four Years.

(c) To notify the board of the existence of a CAPA-CS pursuant to KRS 314.042(10) ~~(b)~~ ~~(a)~~, the APRN shall file with the board the Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS).

(3) For purposes of the CAPA-NS and the CAPA-CS, in determining whether the APRN and the collaborating physician are qualified in the same or a similar specialty, the board shall be guided by the facts of each particular situation and the scope of the APRN's and the physician's actual practice.

(4)(a) An APRN with a CAPA-CS shall report all of his or her United States Drug Enforcement Agency (DEA) Controlled Substance Registration Certificate numbers to the board when issued to the APRN by mailing a copy of each registration certificate to the board within thirty (30) days of issuance.

(b) Any change in the status of a DEA Controlled Substance Registration Certificate number shall be reported in writing to the board within thirty (30) days.

Section 7. Prescribing medications without a CAPA-NS or a CAPA-CS shall constitute a violation of KRS 314.091(1), except when a CAPA-NS has been discontinued pursuant to KRS 314.042(9) or the provisions of KRS 314.196(4)(b) apply.

Section 8. The board may make an unannounced monitoring visit to an advanced practice registered nurse to determine if the advanced practice registered nurse's practice is consistent with the requirements established by 201 KAR Chapter 20, and patient and prescribing records shall be made available for immediate inspection.

Section 9. Prescribing Standards for Controlled Substances.

(1)(a) This section shall apply to an APRN with a CAPA-CS if

prescribing a controlled substance other than a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone.

(b) The APRN shall practice according to the applicable scope and standards of practice for the APRN's role and population focus.

(2) This section shall not apply to:

(a) An APRN prescribing or administering a controlled substance immediately prior to, during, or within the fourteen (14) days following an operative or invasive procedure or a delivery if the prescribing or administering is medically related to the operative or invasive procedure or the delivery and the medication usage does not extend beyond the fourteen (14) days;

(b) An APRN prescribing or administering a controlled substance necessary to treat a patient in an emergency situation; or

(c) An APRN prescribing a controlled substance:

1. For administration in a hospital or long-term-care facility with an institutional account, or an APRN in a hospital or facility without an institutional account, if the hospital, long-term-care facility, or licensee queries KASPER for all available data on the patient or resident for the twelve (12) month period immediately preceding the query within twelve (12) hours of the patient's or resident's admission and places a copy of the query in the patient's or resident's medical records during the duration of the patient's stay at the facility;

2. As part of the patient's hospice or end-of-life treatment;

3. For the treatment of pain associated with cancer or with the treatment of cancer;

4. In a single dose to relieve the anxiety, pain, or discomfort experienced by a patient submitting to a diagnostic test or procedure;

5. Within seven (7) days of an initial prescribing pursuant to subsection (1) of this section if the prescribing:

a. Is done as a substitute for the initial prescribing;

b. Cancels any refills for the initial prescription; and

c. Requires the patient to dispose of any remaining unconsumed medication;

6. Within ninety (90) days of an initial prescribing pursuant to subsection (1) of this section if the prescribing is done by another licensee in the same practice or in an existing coverage arrangement, if done for the same patient for the same medical condition;

7. To a research subject enrolled in a research protocol approved by an institutional review board that has an active federal-wide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections if the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health;

8. During the effective period of any disaster or situation with mass casualties that have a direct impact on the APRN's practice;

9. Administering or prescribing controlled substances to prisoners in a state, county, or municipal correctional facility;

10. Prescribing a Schedule IV controlled substance for no longer than three (3) days for an established patient to assist the patient in responding to the anxiety of a nonrecurring event; or

11. That has been classified as a Schedule V controlled substance.

(3) The APRN shall, prior to initially prescribing a controlled substance for a medical complaint for a patient:

(a) Obtain the patient's medical history and conduct an examination of the patient and document the information in the patient's medical record. An APRN certified in psychiatric/mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query KASPER for all available data on the patient;

(c) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required;

(d) Discuss with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate:

1. The risks and benefits of the use of controlled substances, including the risk of tolerance and drug dependence;

2. That the controlled substance shall be discontinued when the condition requiring its use has resolved; and

3. Document that the discussion occurred and that the patient consented to the treatment.

(4) The treatment plan shall include an exit strategy, if appropriate, including potential discontinuation of the use of controlled substances.

(5) For subsequent or continuing long-term prescriptions of a controlled substance for the same medical complaint, the APRN shall:

(a) Update the patient's medical history and document the information in the patient's medical record;

(b) Modify the treatment plan as clinically appropriate; and

(c) Discuss the risks and benefits of any new controlled substances prescribed with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence.

(6) During the course of treatment, the APRN shall query KASPER no less than once every three (3) months for all available data on the patient before issuing a new prescription or a refill for a controlled substance.

(7) These requirements may be satisfied by other licensed practitioners in a single group practice if:

(a) Each licensed practitioner involved has lawful access to the patient's medical record;

(b) Each licensed practitioner performing an action to meet these requirements is acting within the scope of practice of his or her profession; and

(c) There is adequate documentation in the patient's medical record reflecting the actions of each practitioner.

(8) If prescribing a controlled substance for the treatment of chronic, noncancer pain, the APRN, in addition to the requirements of this section, shall obtain a baseline drug screen or further random drug screens if the APRN:

(a) Finds a drug screen to be clinically appropriate; or

(b) Believes that it is appropriate to determine whether or not the controlled substance is being taken by the patient.

(9) If prescribing a controlled substance for the treatment of a mental health condition, the APRN shall meet the requirements of this section.

(10) If prescribing a controlled substance for a patient younger than sixteen (16) years of age, the APRN shall obtain and review an initial KASPER report. If prescribing a controlled substance for an individual sixteen (16) years of age or older, the requirements of this section shall apply.

(11) Prior to prescribing a controlled substance for a patient in the emergency department of a hospital that is not an emergency situation as specified in subsection (2) of this section, the APRN shall:

(a) Obtain the patient's medical history, conduct an examination of the patient and document the information in the patient's medical record. An APRN certified in psychiatric/mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query KASPER for all available data on the patient;

(c) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required;

(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence, and document that the discussion occurred and that the patient consented to the treatment.

Section 10. Prescribing Standards for Controlled Substances from Schedule II and Schedule III Containing Hydrocodone. (1)(a) This section shall apply to an APRN with a CAPA-CS if prescribing a controlled substance from Schedule II or Schedule III controlled substance containing hydrocodone.

(b) The APRN shall practice according to the applicable scope and standards of practice for the APRN's role and population focus.

(2) This section shall not apply to:

(a) An APRN prescribing or administering a controlled substance immediately prior to, during, or within the fourteen (14) days following an operative or invasive procedure or a delivery if the prescribing or administering is medically related to the operative or invasive procedure or the delivery and the medication usage does not extend beyond the fourteen (14) days;

(b) An APRN prescribing or administering a controlled substance necessary to treat a patient in an emergency situation; or

(c) An APRN prescribing a controlled substance:

1. For administration in a hospital or long-term-care facility with an institutional account, or an APRN in a hospital or facility without an institutional account, if the hospital, long-term-care facility, or licensee queries KASPER for all available data on the patient or resident for the twelve (12) month period immediately preceding the query within twelve (12) hours of the patient's or resident's admission and places a copy of the query in the patient's or resident's medical records during the duration of the patient's stay at the facility;

2. As part of the patient's hospice or end-of-life treatment;

3. For the treatment of pain associated with cancer or with the treatment of cancer;

4. In a single dose to relieve the anxiety, pain, or discomfort experienced by a patient submitting to a diagnostic test or procedure;

5. Within seven (7) days of an initial prescribing pursuant to subsection (1) of this section if the prescribing or dispensing:

a. Is done as a substitute for the initial prescribing;

b. Cancels any refills for the initial prescription; and

c. Requires the patient to dispose of any remaining unconsumed medication;

6. Within ninety (90) days of an initial prescribing pursuant to subsection (1) of this section if the prescribing is done by another licensee in the same practice or in an existing coverage arrangement, if done for the same patient for the same medical condition; or

7. To a research subject enrolled in a research protocol approved by an institutional review board that has an active federal-wide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections if the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health.

(3) Prior to the initial prescribing of a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone to a human patient, an APRN shall:

(a) Obtain a medical history and conduct a physical or mental health examination of the patient, as appropriate to the patient's medical complaint, and document the information in the patient's medical record;

(b) Query the electronic monitoring system established in KRS 218A.202 for all available data on the patient for the twelve (12) month period immediately preceding the patient encounter and appropriately utilize that data in the evaluation and treatment of the patient;

(c) Make a written plan stating the objectives of the treatment and further diagnostic examinations required;

(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence; and

(e) Obtain written consent for the treatment.

(4)(a) An APRN prescribing an additional amount of a Schedule II controlled substance or Schedule III controlled substance containing hydrocodone for the same medical complaint and related symptoms shall:

1. Review the plan of care at reasonable intervals based on the patient's individual circumstances and course of treatment;

VOLUME 41, NUMBER 10 – APRIL 1, 2015

2. Provide to the patient any new information about the treatment; and

3. Modify or terminate the treatment as appropriate.

(b) If the course of treatment extends beyond three (3) months, the licensee shall:

1. Query KASPER no less than once every three (3) months for all available data on the patient for the twelve (12) month period immediately preceding the query; and

2. Review that data before issuing any new prescription or refills for the patient for any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone.

(5) For each patient for whom an APRN prescribes a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, the licensee shall keep accurate, readily accessible, and complete medical records, which include, as appropriate:

(a) Medical history and physical or mental health examination;

(b) Diagnostic, therapeutic, and laboratory results;

(c) Evaluations and consultations;

(d) Treatment objectives;

(e) Discussion of risk, benefits, and limitations of treatments;

(f) Treatments;

(g) Medications, including date, type, dosage, and quantity prescribed;

(h) Instructions and agreements; and

(i) Periodic reviews of the patient's file.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "AACN Scope and Standards for Acute Care Nurse Practitioner Practice", 2012 Edition, American Association of Critical-Care Nurses;

(b) "AACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice", 2010 Edition, American Association of Critical-Care Nurses;

(c) "Neonatal Nursing: Scope and Standards of Practice", 2013 Edition, American Nurses Association/National Association of Neonatal Nurses;

(d) "Nursing: Scope and Standards of Practice", 2010 Edition, American Nurses Association;

(e) "Pediatric Nursing: Scope and Standards of Practice", 2008 Edition, American Nurses Association/Society of Pediatric Nursing/National Association of Pediatric Nurse Practitioners;

(f) "Psychiatric-Mental Health Nursing 2nd Edition[Practice]: Scope and Standards of Practice", 2014[~~2014~~], American Nurses Association/American Psychiatric Nursing Association;

(g) "Scope of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(h) "Standards of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(i) "Scope of Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(j) "Standards for Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(k) "Standards for Office Based Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(l) "Standards for the Practice of Midwifery", 2011 Edition, American College of Nurse-Midwives;

(m) "Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice", 2013 Edition, Oncology Nursing Society;

(n) "The Women's Health Nurse Practitioner: Guidelines for Practice and Education", 2008 Edition, Association of Women's Health, Obstetric and Neonatal Nurses/Nurse Practitioners in Women's Health["Scope and Standards of Psychiatric-Mental Health Nursing Practice", 2007 Edition, American Nurses' Association];

(b) "Nursing: Scope and Standards of Practice", 2010 Edition, American Nurses' Association;

(c) "Standards for Office Based Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(d) "Standards for Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(e) "Scope of Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(f) "Standards for the Practice of Midwifery", 2011 Edition, American College of Nurse-midwives;

(g) "The Women's Health Nurse Practitioner: Guidelines for Practice and Education", 2008 Edition, Association of Women's Health, Obstetric and Neonatal Nurses and National Association of Nurse Practitioners in Women's Health;

(h) "Pediatric Nursing: Scope and Standards of Practice", 2008 Edition, National Association of Pediatric Nurse Practitioners;

(i) "Standards of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(j) "Scope of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(k) "AACN Scope and Standards for Acute Care Nurse Practitioner Practice", 2012 Edition, American Association of Critical-Care Nurses;

(l) "Neonatal Nursing: Scope and Standards of Practice", 2013 Edition, American Nurses Association/National Association of Neonatal Nurses;

(m) "AACN Scope and Standards for Acute and Critical Care Clinical Nurse Specialist Practice", 2010 Edition, American Association of Critical-Care Nurses;

(n) "Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice", 2013 Edition, Oncology Nursing Society];

(o) "Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS)", 12/2014[6/2014], Kentucky Board of Nursing;

(p) "Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs (CAPA-NS)", 12/2014[6/2014], Kentucky Board of Nursing; and

(q) "Notification to Discontinue the CAPA-NS After Four Years", 12/2014[6/2014], Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

SALLY BAXTER, President

APPROVED BY AGENCY: December 5, 2014

FILED WITH LRC: January 8, 2015 at 10 a.m.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251, email nathan.goldman@ky.gov.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)**

201 KAR 28:010. Definitions for 201 KAR Chapter 28[and abbreviations].

RELATES TO: KRS 319A.010-319A.210

STATUTORY AUTHORITY: KRS 319A.070(1), (3)(a)-(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3)(a) authorizes[Chapter 319A and pertinent parts of KRS 319A.070(3) require] the Kentucky Board of Licensure for Occupational Therapy to promulgate administrative regulations and administer the provisions of KRS Chapter 319A[pertaining to the practice and licensure of occupational therapists and occupational therapy assistants]. This administrative regulation establishes[sets forth] the definitions used in 201 KAR Chapter 28[definition of terms and phrases which will be used by the board in enforcing and interpreting the provisions of KRS Chapter 319A and the administrative regulations].

Section 1. Definitions. (1) "ACOTE" means the Accreditation Council for Occupational Therapy Education.

(2) "Act" means the Kentucky Occupational Therapy Practice Act as established in KRS 319A.010 to 319A.990.

(3) "Adjunctive strategies[Adjunct]" means methods or interventions that support and advance a client's occupational therapy performance used as a precursor to enable purposeful activities or occupations[preparatory methods and tasks that prepare the client for occupational performance used as part of a treatment session in preparation for or concurrently with occupation as and activities or provided to a client as a home based engagement to support daily occupational performance], strategies, or interventions that support and advance a client's occupational therapy performance used as a precursor to enable purposeful activities or occupations).

(4) "AOTA" means the American Occupational Therapy Association.

(5) "Assistive technology" means identification and use of assistive technologies (high and low tech), application of universal design principles, and recommended changes to the environment of activity to support the client's ability to engage in occupations[any item, piece of equipment, or product system, whether commercially available, modified, or custom designed, that is used to increase, maintain, or enhance the occupational performance of an individual].

(5)(6) "Basic activities of daily living" means tasks or activities that are oriented toward taking care of one's own body; those tasks that are performed daily by an individual that pertain to and support one's self-care, mobility, and communication; and includes the following activities:

- (a) Bathing and showering;
- (b) Bowel and bladder management;
- (c) Dressing;
- (d) Swallowing, eating, and feeding;
- (e) Functional mobility;
- (f) Personal device care;
- (g) Personal hygiene and grooming;
- (h) Sexual activity;
- (i) Sleep and rest; and
- (j) Toileting and toilet hygiene.

(6)(7) "Certified hand therapist" or "CHT" [(CHT)] means a person who is certified by the Hand Therapy Certification Commission.

(8) "Board" is defined by KRS 319A.010(1).

(7)(9) "Cognitive components" means the skill and performance of the mental processes necessary to know or comprehend by understanding with such skills including: orientation, conceptualization, and comprehension, including concentration, attention span, memory, and cognitive integration including generalization, and problem-solving.

(10) "Components of performance" means activity and occupational demands, client factors, performance skills, context, and environment[the demands of an activity which include human, object and contextual factors including objects, space, social demands, sequencing or timing, required actions for performance and required underlying body functions and structures needed to carry out activities].

(8)(11) "COTA" means a certified occupational therapy assistant.

(9)(12) "COTA/L means a certified occupational therapy assistant/licensed.

(10)(12)(13) "Ergonomic principles" means:

(a) The study of:

1. Relationships between components of performance;
2. People as it relates to their occupations, the equipment they use and their environment; and
3. The application of that knowledge and skill as it focuses upon maximizing efficiency in the areas of production, quality and safety; and

(b) Principles that are utilized by occupational therapists to optimize an individual's occupational performance in the areas of self-care, productivity, work, and leisure and may include job analysis, consultation, and educational activities.

(14) "Functional mobility" means moving from one (1) position or place to another including in-bed mobility, wheelchair mobility,

transportation of objects through space, and functional ambulating[and] transfers, driving, and community mobility.

(11)(15) "Gait training" means the instruction of proper walking patterns.

(16) "General supervision" means an interactive process for collaboration on the practice of occupational therapy which includes the review and oversight of all aspects of the services being provided by the individual under supervision.

(12)(17) "Instrumental activities of daily living" means complex tasks or activities that are oriented toward interacting with the environment and are essential to self-maintenance matters which extend beyond personal care, including:

- (a) Care of others;
- (b) Care of pets;
- (c) Child rearing;
- (d) Communication management[device use];
- (e) Financial management;
- (f) Health management and maintenance;
- (g) Home establishment, management, and maintenance;
- (h) Meal preparation and cleanup;
- (i) Safety[procedures] and emergency maintenance[responses];
- (j) Shopping;[and]
- (k) Spiritual activities; and
- (l) Selection and supervision of caregivers.

(13) "NBCOT" means the National Board for Certification in Occupational Therapy.

(14)(18) "Occupations" means activities, tasks or roles that individuals engage in which provide intrinsic value and meaning for the individual, society, and culture.

(15) "OT" means occupational therapy.

(16) "OT/L" means as occupational therapist/licensed.

(17) "OTA/L" means an occupational therapist assistant/licensed.

(18) "OTR" means an occupational therapist registered.

(19) "OTR/L" means an occupational therapist registered/licensed.

(20) [(19)] "OTA/L" means an occupational therapy assistant/licensed.

(20) "OT/L" means an occupational therapist/licensed.

(21) "OT" means occupational therapy.

(22) "OTR/L" means an occupational therapist registered/licensed.

(23) "OTR" means an occupational therapist registered.

(24) "Performance abilities" means the utilization of performance skills in the participation of active daily life.

(21)(25) "Performance skills" means the observable actions of a person that have implicit functional purposes, including motor skills, processing skills, interaction skills, and communication skills.

(22)(26) "Prevention" means an intervention approach designed to address the needs of clients with or without a disability who are at risk for occupational performance problems. This approach is designed to prevent the occurrence or evolution of barriers to performance in context. Interventions may be directed at client, context, or activity variables[the skill and the performance of the person to minimize debilitation with the treatment focusing on energy conservation, including activity restriction, work simplification, and time management, joint protection and body mechanics, including proper posture, body mechanics, and avoidance of excessive weight bearing, positioning, and coordination of daily living activities].

(27) "Psychosocial component" means the skill and performance in self-management and interaction skills with such skills including: self-expression, self-control, interaction with another person, and interaction with groups of three (3) or more people.

(28) "Remediation" means an intervention approach designed to change client variables to create, promote, establish, and restore[establish][a performance skill or ability][that has not yet developed].

(29) "Restoration" means to restore a performance skill or ability that has been impaired.

~~[(30) "Sensorimotor components" means] the [skill and performance] of [patterns including client factors, sensory processing, neuromusculoskeletal, muscle, and movement related functions] of sensory and motor behavior of a person undergoing treatment with skills including neuromuscular activity, including reflex integration, range of motion, gross and fine motor coordination, strength and endurance, and sensory integration, including sensory awareness, visual-spatial awareness, and body integration].~~

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, email Jennifer.Hutcherson@ky.gov.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)**

201 KAR 28:020. General provisions.

RELATES TO: KRS 319A.080, 319A.110, 319A.120, ~~319A.130,~~ 319A.140

STATUTORY AUTHORITY: KRS 319A.070(1), (3)(a)(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3)(a) authorizes the board to promulgate ~~such~~ administrative regulations ~~as are needed~~ to enforce the provisions of KRS Chapter 319A. This administrative regulation sets forth the minimum requirements of information to be provided in applying for a license.

Section 1. An applicant for licensure shall submit to the board the information requested, which at a minimum shall provide for:

- (1) The name, business address, if any, permanent address, email address, and telephone number of the applicant;
- (2) A statement as to whether the applicant has been convicted of any felony offense in any state or has been convicted ~~during the past five (5) years~~ of a misdemeanor or civil violation involving an offense of moral turpitude in any state;
- (3) A statement as to whether the applicant has been adjudged guilty in a civil suit in a court of competent jurisdiction in any state of malpractice or negligence in the practice of occupational therapy; and
- (4) A statement as to whether the applicant has had a license, registration, or certification as an OT/L or OTA/L, as issued by another state, revoked, suspended or probated ~~during the past five (5) years~~ or if there are any complaints currently pending.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818 Jennifer.Hutcherson@ky.gov.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)**

201 KAR 28:030. Short-term practice of occupational therapy for persons practicing under KRS 319A.090(1)(e).

RELATES TO: KRS 319A.090

STATUTORY AUTHORITY: KRS 319A.070(1), (3)(a)(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3)(a) authorizes the board to promulgate administrative regulations and administer the provisions of

KRS Chapter 319A. KRS 319A.090 provides that certain persons may be exempt from the licensure requirements of KRS Chapter 319A. This administrative regulation sets forth the requirements for persons who are temporarily practicing in Kentucky and who seek to engage in the practice of occupational therapy for no more than sixty (60) days in a calendar year pursuant to KRS 319A.090(1)(e).

Section 1. (1) Any individual who intends to practice occupational therapy in the Commonwealth of Kentucky, in association with a Kentucky OT/L, under the provisions of KRS 319A.090(1)(e) shall submit to the board the following information:

(a) The name, permanent address, address in Kentucky, email address, and telephone number ~~for number~~ where the individual may be reached;

(b) The name, business address, and telephone number of the OT/L with whom the individual is associated;

(c) The dates on which the individual intends to practice in Kentucky; and

(d) 1. A copy of the current license from the state in which the individual is licensed along with a statement from the licensing authority that the individual is in good standing; or

2.(e)] A letter of verification issued by the NBCOT stating that the individual meets the current requirements for certification as an OTR or a COTA and is in good standing.

(2) The information as described in subsection (1) of this section shall be submitted to the board prior to the commencement of practice.

(3) The applicant's request may be approved by the board chair upon receipt of all items listed in this administrative regulation.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, email Jennifer.Hutcherson@ky.gov.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)**

201 KAR 28:060. Requirements for licensure.

RELATES TO: KRS 319A.100, 319A.110, ~~319A.130]~~

STATUTORY AUTHORITY: KRS 319A.070(1), (3)(a)(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3)(a) authorizes the board to promulgate administrative regulations and administer the provisions of KRS Chapter 319A and pertinent parts of KRS 319A.070(3) require the board to establish a procedure for the licensure of persons who wish to practice in this state as an OT/L or an OTA/L. This administrative regulation sets forth the procedure by which ~~those~~ applicants shall apply for a license under the provisions of ~~KRS~~ Chapter 319A.

Section 1. Licensure of an OT/L. An applicant for licensure as an OT/L that has not previously been licensed, certified, or registered in any state shall meet the following requirements:

(1) Submit a completed ~~OT/L~~ Application Form ~~6/2003~~;

(2) Submit a certified copy of the applicant's transcript indicating that the applicant for an OTR/L has a baccalaureate degree, postbaccalaureate certificate, master's degree, or doctorate degree from an occupational therapy program accredited by the ACOTE or its equivalent;

(3) Submit electronic verification ~~a current copy of the certificate issued~~ by the NBCOT stating that the applicant meets the requirements of certification as an OTR/L; ~~and~~

(4) Successfully complete the jurisprudence exam; and

(5) Submit the appropriate fee for licensure as required by 201 KAR 28:110.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

Section 2. Licensure of OTA/L. **An applicant**~~[Applicants]~~ for licensure as an OTA/L that **has**~~[have]~~ not previously been licensed in any state shall meet the following requirements:

(1) Submit a completed **OTA/L Application Form**~~["OT/L Application Form 6/2003"]~~;

(2) Submit a certified copy of the applicant's official academic transcript indicating that the applicant has graduated from an occupational therapy assistant educational program approved by the ACOTE or its equivalent;

(3) Submit **electronic verification**~~[a current copy of the certificate issued]~~ by the NBCOT stating that the applicant meets the requirements of certification as a COTA;~~[and]~~

(4) **Successfully complete the jurisprudence exam; and**

(5) Submit the appropriate fee for licensure as required by 201 KAR 28:110.

Section 3. Licensure of Persons Licensed, Certified, or Registered in Other States. An applicant for licensure as an OT/L or OTA/L that is or has been licensed, certified, or registered in another state shall **meet the following requirements**~~[submit]~~:

(1) **Submit** a completed ~~["OT/L Application Form 6/2003"]~~ or ~~["OTA/L Application Form 6/2003"]~~;

(2) **Submit** an official statement from every jurisdiction in which the applicant has held a license or credential that the individual is in good standing in that jurisdiction;

(3) **Submit** a current copy of the certificate issued by the NBCOT stating that the individual met the initial requirements for certification as an OTR or a COTA;~~[and]~~

(4) **Successfully complete the jurisprudence exam; and**

(5) **Submit** the appropriate fee for licensure as required by 201 KAR 28:110.

Section 4. Foreign-trained Applicants. **(1)** An applicant for licensure as an occupational therapist who was trained at an educational facility in a country or nation other than the United States shall **meet the following requirements**~~[submit]~~:

(a) Submit~~(1)~~ a completed ~~["OT/L Application Form 6/2003"]~~;

(b) Submit~~(2)~~ a current copy of the certificate issued by the NBCOT stating that the individual met the initial requirements for certification as an OTR **or a COTA**;

(c) Submit~~(3)~~ the appropriate fee for licensure as required by 201 KAR 28:110; ~~[and]~~

(d)~~(4)~~ **Successfully complete the jurisprudence exam; and**

(e) Submit~~(5)~~ evidence of legal permission, as furnished by the U.S. Department of Immigration and Naturalization, for employment in the United States as documented by:

1. An~~(a)~~ I-94 form;

2. An~~(b)~~ alien registration card;

3. A~~(c)~~ temporary resident card;~~[or]~~

4. An~~(d)~~ NBCOT Visa Verification; or

5.~~(e)~~ A stamp on their passport.

(2)~~(6)~~~~(5)~~ A foreign-trained applicant who is or has been licensed, certified, or registered in another jurisdiction of the United States shall comply with the requirements of Section 3(3) of this administrative regulation.

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

(a) "OT/L Application Form", **February 2015**~~[6/2003]~~; and

(b) "OTA/L Application Form", **February 2015**~~[6/2003]~~;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure of Occupational Therapist, 911 Leaward Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 0 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296,

ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov.

GENERAL GOVERNMENT CABINET Kentucky Board of Licensure for Occupational Therapy (As Amended at ARRS, March 10, 2015)

201 KAR 28:070. Examination.

RELATES TO: KRS 319A.120

STATUTORY AUTHORITY: KRS 319A.070 ~~(1), (3)(a), (i)(3), 319A.120(4)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~319A.070(3)(a) authorizes~~~~[Chapter 319A requires]~~ the board to promulgate administrative regulations **and administer the provisions of KRS Chapter 319A, KRS 319A.070(3)(i) authorizes the board to approve an examination for an occupational therapist and an occupational therapy assistant**~~[establishing the requirements for an examination to be taken by an applicant for licensure]~~. This administrative regulation establishes those **examination** requirements.

Section 1. Examination Approved by the Board. The examinations approved for licensure are:

(1) The NBCOT certification examination for occupational therapists; and

(2) The NBCOT certification examination for occupational therapy assistants.

Section 2. (1) An applicant for licensure shall take the appropriate examination as authorized by **the** NBCOT and shall receive a passing score on the examination.

(2) It shall be the responsibility of the applicant to make arrangements to:

(a) Sit for the examination;

(b) Pay the requisite examination fee to **the** NBCOT; and

(c) Ensure that the board receives **electronic** evidence from **the NBCOT** of successful completion of the examination.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov.

GENERAL GOVERNMENT CABINET Kentucky Board of Licensure for Occupational Therapy (As Amended at ARRS, March 10, 2015)

201 KAR 28:090. Renewals.

RELATES TO: KRS 319A.160

STATUTORY AUTHORITY: KRS 319A.070 ~~(1), (3)(a), (d)(3), 319A.160(1)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~[Chapter]~~ 319A.070(3) **authorizes**~~[allows]~~ the board to promulgate administrative regulations establishing procedures for annual renewal of licenses. This administrative regulation establishes those procedures.

Section 1. (1) A person licensed as an OT/L or an OTA/L shall annually, before October 31, pay to the board a renewal fee as set forth in 201 KAR 28:110 for the renewal of the license and file an ~~["Annual OT/OTA Renewal Application"]~~~~[, incorporated by reference in Section 5 of this administrative regulation]~~~~[4]~~. A license not renewed before October 31 of each year shall expire.

(2) A license issued to a person during the last ninety (90) days of a licensure period shall expire at the end of the subsequent licensure period.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

Section 2. A sixty (60) day grace period shall be allowed beginning October 31, during which time an individual may renew his or her license upon payment of the late renewal fee as set forth in 201 KAR 28:110. A license not renewed before December 31 shall terminate based on the failure of the individual to renew in a timely manner. Upon termination, the licensee shall no longer be eligible to practice occupational therapy in the Commonwealth and shall be sent notice at the last known address available to the board of termination, and to cease and desist practice.

Section 3. After the sixty (60) day grace period, an individual with a terminated license shall have the license reinstated upon:

- (1) Payment of the late renewal fee plus a reinstatement fee as set forth by 201 KAR 28:110;
- (2) Completion of the Reinstatement Application for Licensure as an Occupational Therapist or Reinstatement Application for Licensure as an Occupational Therapy Assistant.
- (3) Documentation of employment from the time of termination until the present;
- (4) [(3)] Documentation that licensure, certification, or registration in other states is in good standing; [and]
- (5) [(4)] Documentation of current or initial certification by the National Board of Certification in Occupational Therapy or its equivalent;
- (6) Completion of the board jurisprudence exam; and
- (7) Proof of completion of continuing education as required on the Reinstatement Application for Licensure as an Occupational Therapist or Reinstatement Application for Licensure as an Occupational Therapy Assistant.

Section 4. Steps to renew an OT/L or OTA/L license shall include:

- (1) Payment of the renewal fee as set forth by 201 KAR 28:110;
- (2) Completion of the Annual OT/OTA Renewal Application; incorporated by reference in Section 5 of this administrative regulation], either online or by paper; and
- (3) Completion of twelve (12) continuing competence units; and
- (4) Completion of the board jurisprudence exam].

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

- (a) "Annual OT/OTA Renewal Application", February 2015;
- (b) "Reinstatement Application for Licensure as an Occupational Therapist", February 2015; and
- (c) "Reinstatement Application for Licensure as an Occupational Therapy Assistant", February 2015["Annual Renewal Application", 8/06 ed., is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Board of Licensure for Occupational Therapy, 911 Leawood Drive, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov.

GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)

201 KAR 28:110. Fees.

RELATES TO: KRS 319A.160(10), 319A.170

STATUTORY AUTHORITY: KRS 319A.070(1), (3)(a), ~~319A.160(3), 319A.169~~(10), 319A.170

NECESSITY, FUNCTION, AND CONFORMITY: KRS

319A.070(3)(a) ~~authorizes~~allows the board to promulgate administrative regulations to carry out the provisions of KRS Chapter 319A. KRS 319A.170 requires fees for initial license, renewal and late renewal to be determined by the board, and KRS 319A.160(10) ~~authorizes~~allows the board to set an inactive license renewal fee. This administrative regulation establishes those fees.

Section 1. Original License Fees. The following fees shall be paid in connection with all types of occupational therapy licenses:

- (1) The fee for initial licensure as an OT/L shall be fifty (50) dollars; and
- (2) The fee for initial licensure as an OTA/L shall be thirty-five (35) dollars.

Section 2. Renewal Fees and Penalties. The following fees shall be paid in connection with licensure renewals and late renewal penalties:

- (1) The renewal fee for licensure as an OT/L shall be fifty (50) dollars;
- (2) The renewal fee for licensure as an OTA/L shall be thirty-five (35) dollars;
- (3) The late renewal fee, including penalty, for late renewal during the grace period extending from ~~November 1 to December 31~~July 1 to August 29 shall be ~~twenty-five (25)~~seventy-five (75) dollars; [and]
- (4) The renewal fee for an inactive license shall be ten (10) dollars; and
- (5) The reinstatement fee shall be seventy-five (75) dollars.

Section 3. Duplicate License Fee. The fee for a duplicate license shall be ten (10) dollars.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov.

GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)

201 KAR 28:140. Code of ethics and unprofessional conduct[and code of ethics].

RELATES TO: KRS 319A.160, 319A.190

STATUTORY AUTHORITY: KRS 319A.070(1), (3), 319A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3)(a) authorizes the board to promulgate administrative regulations and administer the provisions of KRS Chapter 319A. KRS Chapter 319A provides for the denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license for various violations of the Act and violation of the administrative regulations promulgated pursuant thereto. This administrative regulation sets forth a description of the code of ethics and unprofessional conduct[~~and also a code of ethics~~].

Section 1. The following code of ethics consists of general guidelines for occupational therapy practice. The code of ethics shall be as established in this section.

- (1) An OT/L or an OTA/L shall be responsible for providing services without regard to race, creed, national origin, sex, age, handicap, disease[~~entity~~], social status, financial status, or religious affiliation.
- (2) An OT/L or an OTA/L shall be acquainted with applicable local, state, federal, and institutional rules and shall function accordingly.
- (3) An OT/L or an OTA/L shall be responsible for informing

VOLUME 41, NUMBER 10 – APRIL 1, 2015

employers, employees, and colleagues about those laws and policies that apply to the profession of occupational therapy.

(4) An OT/L or an OTA/L shall not use or participate in the use of any form of communication that contains a false, fraudulent, deceptive, or unfair statement or claim.

(5) An OT/L or an OTA/L shall report any illegal, incompetent, or unethical practice to the appropriate authority.

(6) An OT/L or an OTA/L shall hold the appropriate credentials for providing service.

(7) An OT/L or an OTA/L shall actively maintain high standards of professional competence.

(8) An OT/L or an OTA/L shall function within the parameters of his or her competence and the standards of the profession.

(9) An OT/L or an OTA/L shall accurately represent his or her competence and training to the public.

(10) An OT/L or an OTA/L shall refer clients to other service providers or consult with other service providers when additional knowledge and expertise is required.

(11) An OT/L or an OTA/L shall protect the confidential nature of information gained from educational, practice, and investigational activities unless sharing the information is necessary to protect the well-being of a third party.

(12) An OT/L or an OTA/L shall not disclose privileged information when participating in reviews of peers, programs, or systems.

(13) An OT/L or an OTA/L shall include those people served in the intervention planning process.

(14) An OT/L or an OTA/L shall maintain goal-directed and objective relationships with all people served.

(15) An OT/L or an OTA/L shall accurately record and report client information.

(16) An OT/L or an OTA/L shall inform those people served of the nature and potential outcomes of therapy and shall respect the right of potential recipients of service to refuse therapy.

(17) An OT/L or an OTA/L shall inform subjects involved in education or research activities of the potential outcome of those activities.

(18) An OT/L or an OTA/L shall take all reasonable precautions to avoid harm to the recipient of services or detriment to the recipient's property.

(19) An OT/L or an OTA/L shall establish fees, based on cost analysis, that are commensurate with services rendered.

(20) An OT/L or an OTA/L shall require those whom they supervise to adhere to ethical standards of conduct.

(21) An OT/L or an OTA/L who employs or supervises colleagues shall provide appropriate supervision **as required by 201 KAR 28:130.**

(22) An OT/L or an OTA/L shall recognize the contributions of colleagues when disseminating professional information. Failure to comply with any of the provisions in this section shall constitute unprofessional conduct in the practice of occupational therapy.

(1) An OT/L or an OTA/L shall not delegate to an unlicensed employee or person a service which requires the skill, knowledge or judgment of an OT/L or an OTA/L;

(2) An OT/L or an OTA/L shall address goals identified in the evaluation and intervention plan;

(3) An OT/L or an OTA/L shall inform the referring source when any requested occupational therapy service is contraindicated, in the professional judgment of the licensee, and may refuse to carry out that request;

(4) An OT/L or an OTA/L shall not continue occupational therapy services beyond the point of possible benefit to the client or provide therapy to the client more frequently than necessary to obtain the maximum therapeutic effect;

(5) An OT/L or an OTA/L shall not directly or indirectly request, receive or participate in the dividing, transferring, assigning, rebating or refunding of an unearned fee or profit by means of a credit or other valuable consideration as an unearned commission, discount or gratuity in connection with the furnishing of occupational therapy services;

(6) An OT/L or an OTA/L shall not permit another person to use his or her license for any purpose;

(7) An OT/L or an OTA/L shall not abuse alcohol or any

controlled substance which affects the licensee's ability to engage in the practice of occupational therapy in a safe and competent manner;

(8) An OT/L or an OTA/L shall not verbally or physically abuse a client;

(9) An OT/L or an OTA/L shall not engage in false or misleading advertising, betrayal of a professional confidence, or falsification of a client's records;

(10) An OT/L or an OTA/L shall report a change of name or address to the board within thirty (30) days after a change of name or address occurs;

(11) An OT/L or an OTA/L shall notify the board within thirty (30) days after being adjudged guilty of malpractice by a court of competent jurisdiction;

(12) An OT/L or an OTA/L shall comply with any subpoena issued by the board; and

(13) An OT/L or an OTA/L shall report to the board any violation of the Act or these administrative regulations.

(14)(a) An OT/L or an OTA/L shall not provide occupational therapy services in an incompetent manner.

(b) Incompetent practice includes:

1. A lack of the knowledge, judgment, or skill necessary to perform those modalities, methods, and techniques that come within the practice of occupational therapy;

2. A deviation below the standard of practice ordinarily possessed and applied by other OT/Ls and OTA/Ls in the Commonwealth of Kentucky acting in the same or similar circumstances; or

3. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of occupational therapy in the Commonwealth of Kentucky.

(15) An OT/L shall competently provide the following minimum services:

(a) Proper interpretation of all referrals;

(b) Proper client evaluations;

(c) The identification and documentation of the client's problems and goals;

(d) The identification and documentation of an intervention plan;

(e) The appropriate OT services called for by the plan of care;

(f) A determination of the appropriate portions of the therapy program to be delegated to assistive personnel;

(g) A determination of the assistive personnel's qualifications by training, experience, license, or certification to perform tasks before delegating those tasks;

(h) The appropriate supervision of individuals as required by 201 KAR 28:130;

(i) Timely client reevaluations; and

(j) Maintain timely and adequate client records of all occupational therapy activity and client response.

(16) An OTA/L shall competently provide the following minimum services as appropriate:

(a) The appropriate therapy called for by the intervention plan;

(b) A determination of the appropriate portions of the therapy program to be delegated to assistive personnel;

(c) A determination of the assistive personnel's qualifications by training, experience, license, or certification to perform tasks before delegating those tasks;

(d) The appropriate supervision of individuals as required by 201 KAR 28:130; and

(e) Maintain timely and adequate client records of all occupational therapy activity and client response.

(17)(a) An OT/L or an OTA/L shall not engage in acts of sexual misconduct with recipients of their services or in their presence.

(b) Sexual misconduct includes:

1. Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual.

2. Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact or acts of a sexual nature.

(18)(a) An OT/L or an OTA/L shall not seek to obtain payment of a professional fee or compensation of any form through fraudulent means.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

~~(b) Seeking payment or compensation through fraudulent means includes:~~

- ~~1. Reporting incorrect service dates for the purpose of obtaining payment;~~
- ~~2. Reporting charges for services not actually rendered other than unkept appointments;~~
- ~~3. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee or the licensee's employer is entitled;~~
- ~~4. Aiding a recipient of services in fraudulently obtaining payment from a third party; or~~
- ~~5. Otherwise falsifying a record for the purpose of obtaining a payment].~~

Section 2. Failure to comply with any of the provisions in this section shall constitute unprofessional conduct in the practice of occupational therapy.

(1) An OT/L or an OTA/L shall report to the board any violation of **KRS Chapter 319A**[the act] or **201 KAR Chapter 28**[these administrative regulations].

(2) An OT/L or an OTA/L shall report a change of name or address to the board within thirty (30) days after a change of name or address occurs.

(3) An OT/L or an OTA/L shall notify the board within thirty (30) days after being adjudged guilty of malpractice by a court of competent jurisdiction.

(4) An OT/L or an OTA/L shall comply with any subpoena issued by the board.

(5) An OT/L or an OTA/L shall not permit another person to use his or her license for any purpose.

(6) An OT/L or an OTA/L shall not delegate to an unlicensed employee or person a service which requires the skill, knowledge, or judgment of an OT/L or an OTA/L.

(7) An OT/L or an OTA/L shall inform the referring source when any requested occupational therapy service is contraindicated, in the professional judgment of the licensee, and may refuse to carry out that request.

(8) An OT/L shall competently provide the following minimum services:

(a) Proper interpretation of all referrals;

(b) Proper client evaluations;

(c) The identification and documentation of the client's problems and goals;

(d) The identification and documentation of an intervention plan;

(e) The appropriate **occupational therapy**[**OT**] services called for by the plan of care;

(f) A determination of the appropriate portions of the therapy program to be delegated to assistive personnel;

(g) A determination of the assistive personnel's qualifications by training, experience, license, or certification to perform tasks before delegating those tasks;

(h) The appropriate supervision of individuals as required by 201 KAR 28:130;

(i) Timely client reevaluations; and

(j) Maintain timely and adequate client records of all occupational therapy activity and client response.

(9) An OTA/L shall competently provide the following minimum services as appropriate:

(a) Seek appropriate supervision as required by 201 KAR 28:130;

(b) The appropriate therapy called for by the intervention plan;

(c) A determination of the appropriate portions of the therapy program to be delegated to assistive personnel;

(d) A determination of the assistive personnel's qualifications by training, experience, license, or certification to perform tasks before delegating those tasks;

(e) The appropriate supervision of individuals as required by 201 KAR 28:130; and

(f) Maintain timely and adequate client records of all occupational therapy activity and client response.

(10)(a) An OT/L or an OTA/L shall not provide occupational therapy services in an incompetent manner.

(b) Incompetent practice includes:

1. A lack of the knowledge, judgment, or skill necessary to perform those modalities, methods, and techniques that come within the practice of occupational therapy;

2. A deviation below the standard of practice ordinarily possessed and applied by other OT/Ls and OTA/Ls in the Commonwealth of Kentucky acting in the same or similar circumstances; or

3. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of occupational therapy in the Commonwealth of Kentucky.

(11) An OT/L or an OTA/L shall address goals identified in the evaluation and intervention plan.

(12) An OT/L or an OTA/L shall not continue occupational therapy services beyond the point of possible benefit to the client or provide therapy to the client more frequently than necessary to obtain the maximum therapeutic effect.

(13) An OT/L or an OTA/L shall not engage in false or misleading advertising, betrayal of a professional confidence, or falsification of a client's records.

(14)(a) An OT/L or an OTA/L shall not seek to obtain payment of a professional fee or compensation of any form through fraudulent means.

(b) Seeking payment or compensation through fraudulent means includes:

1. Reporting incorrect service dates for the purpose of obtaining payment;

2. Reporting charges for services not actually rendered other than unkept appointments;

3. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee or the licensee's employer is entitled;

4. Aiding a recipient of services in fraudulently obtaining payment from a third party; or

5. Otherwise falsifying a record for the purpose of obtaining a payment.

(15) An OT/L or an OTA/L shall not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or profit by means of a credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services.

(16) An OT/L or an OTA/L shall not abuse alcohol or any controlled substance which affects the licensee's ability to engage in the practice of occupational therapy in a safe and competent manner.

(17) An OT/L or an OTA/L shall not verbally or physically abuse a client.

(18)(a) An OT/L or an OTA/L shall not engage in acts of sexual misconduct with recipients of their services or in their presence.

(b) Sexual misconduct includes:

1. Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual; or

2. Making sexual advances, requesting sexual favors, or engaging in other verbal conduct, **or** physical contact, or acts of a sexual nature[The following code of ethics consists of general guidelines for occupational therapy practice. The code of ethics shall be as follows:

(1) An OT/L or an OTA/L shall be responsible for providing services without regard to race, creed, national origin, sex, age, handicap, disease entity, social status, financial status or religious affiliation;

(2) An OT/L or an OTA/L shall inform those people served of the nature and potential outcomes of therapy and shall respect the right of potential recipients of service to refuse therapy;

(3) An OT/L or an OTA/L shall inform subjects involved in education or research activities of the potential outcome of those activities;

(4) An OT/L or an OTA/L shall include those people served in the intervention planning process;

(5) An OT/L or an OTA/L shall maintain goal-directed and objective relationships with all people served;

(6) An OT/L or an OTA/L shall protect the confidential nature of

information gained from educational, practice, and investigational activities unless sharing the information is necessary to protect the well-being of a third party;

(7) An OT/L or an OTA/L shall take all reasonable precautions to avoid harm to the recipient of services or detriment to the recipient's property;

(8) An OT/L or an OTA/L shall establish fees, based on cost analysis, that are commensurate with services rendered;

(9) An OT/L or an OTA/L shall hold the appropriate credentials for providing service;

(10) An OT/L or an OTA/L shall function within the parameters of his competence and the standards of the profession;

(11) An OT/L or an OTA/L shall actively maintain high standards of professional competence;

(12) An OT/L or an OTA/L shall refer clients to other service providers or consult with other service providers when additional knowledge and expertise is required;

(13) An OT/L or an OTA/L shall be acquainted with applicable local, state, federal, and institutional rules and shall function accordingly;

(14) An OT/L or an OTA/L shall be responsible for informing employers, employees and colleagues about those laws and policies that apply to the profession of occupational therapy;

(15) An OT/L or an OTA/L shall require those whom they supervise to adhere to ethical standards of conduct;

(16) An OT/L or an OTA/L shall accurately record and report client information;

(17) An OT/L or an OTA/L shall accurately represent his or her competence and training to the public;

(18) An OT/L or an OTA/L shall not use or participate in the use of any form of communication that contains a false, fraudulent, deceptive, or unfair statement or claim;

(19) An OT/L or an OTA/L shall report any illegal, incompetent or unethical practice to the appropriate authority;

(20) An OT/L or an OTA/L shall not disclose privileged information when participating in reviews of peers, programs, or systems;

(21) An OT/L or an OTA/L who employs or supervises colleagues shall provide appropriate supervision; and

(22) An OT/L or an OTA/L shall recognize the contributions of colleagues when disseminating professional information].

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov.

GENERAL GOVERNMENT CABINET

**Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)**

201 KAR 28:170. Deep physical agent modalities.

RELATES TO: KRS 319A.010(8), 319A.080(4), 319A.170(1)(c)
STATUTORY AUTHORITY: KRS 319A.070(1), (3)(a)-(3),
319A.080(4)(b)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 319A.070(3)(a) authorizes the board to promulgate administrative regulations to administer the provisions of KRS Chapter 319A. KRS 319A.080(4) requires[allows] the board to promulgate administrative regulations to set forth content guidelines for the training and instruction necessary for the use of deep physical agent modalities.[KRS 319A.070 states that the board shall issue a certification to a person who qualifies under this administrative regulation.]** This administrative regulation **establishes[sets forth]** the requirements for obtaining certification in deep physical agent modalities.

Section 1. Definition. "DPAM Specialty Certification" means the

certification issued to a Kentucky-licensed occupational therapist or licensed occupational ~~therapy~~**[therapist]** assistant who meets the standards set forth in KRS ~~319A.080~~**[319A.180]** and this administrative regulation and who has been certified by the board.

Section 2. Application. A licensee, before utilizing deep physical agent modalities, shall submit~~[an application]~~ to the board~~[for]~~ a DPAM Specialty Certification **Application**. (1) The application shall be accompanied by:

(a) Payment of the **certification fee of twenty-five (25) dollars as** required by KRS 319A.170(1)(c); and~~[-]~~

(b) Proper documentation that the applicant has met all educational and clinical requirements for certification which **shall** include:

1. Successful completion of the requisite hours of training and instruction required by KRS 319A.080(4) for the level of licensure held by the applicant; and

2. Successful completion of the five (5) treatment sessions that are signed off by the DPAM supervisor and meet the requirements specified in Section 4 of this administrative regulation.

(2) The documentation shall include:

(a) The **name and address[names and addresses]** of the person or organization presenting the **course, workshop[courses, workshops]**, seminar, or training attended by the applicant;

(b) A copy of the course syllabus or a description of the **course, workshop, or seminar** which includes a summary of the learning objectives and teaching methods employed in the **course, workshop, or seminar, a timed agenda of the course, workshop, or seminar with the content areas identified in Section 3(2)(a) to (j) of this administrative regulation clearly detailed within the timeframes.[and] the qualifications of the instructors, and KBLOT course approval documentation provided by the board to the person or organization presenting the course, workshop, or seminar;**

(c) The name~~[and] address, and credentials~~ of the person identified as the DPAM supervisor who supervised the **five (5) treatment sessions;**

(d) **Proof of successful completion of the training or course of instruction required by KRS 319A.080(4)[A statement signed by the designed program official confirming successful completion of the training or course of instruction]; and**

~~(e) A statement signed by the DPAM supervisor confirming that the applicant has completed five (5) supervised treatment sessions and that the criteria set forth in Section 4 of this administrative regulation have been met[-] and~~

~~(e) A statement signed by the designed program official confirming successful completion of the training or course of instruction].~~

(3) A DPAM Specialty Certification shall be issued by the board before the individual can begin using deep physical agent modalities except when a qualified licensee is performing those modalities as part of a supervised program to complete the **five (5) supervised treatment sessions required for a DPAM Specialty Certification under this administrative regulation.**

(4) The board shall maintain a roster of persons who have been issued DPAM Specialty Certification for the use of deep physical agent modalities.~~[(5) An OT/L or OTA/L who is also licensed by the Kentucky Board of Physical Therapy as a physical therapist or physical therapist assistant and who seeks a DPAM certification shall be certified by the board upon application.]~~

Section 3. Training and Instruction. (1) The training and instruction shall be earned by direct personal participation in courses, workshops, or seminars.

(2) The content of the courses, workshops, or seminars shall include **hands on** training and instruction. **Training shall not consist of all on-line courses that do not provide hands on lab instruction. Training shall include[in]** the following subject areas:

(a) Principles of physics related to specific properties of light, water, temperature, sound, and electricity;

(b) Physiological, neurophysiological, and electrophysiological

VOLUME 41, NUMBER 10 – APRIL 1, 2015

changes which occur as a result of the application of each of the agents identified in KRS 319A.010(8);

(c) Theory and principles of the utilization of deep physical agents which includes guidelines for treatment or administration of agents within the philosophical framework of occupational therapy;

(d) The rational and application of the use of deep physical agents;

(e) The physical concepts of ion movement;

(f) Critical thinking and decision making regarding the indications and contraindications in the use of deep physical agents;

(g) Types selection and placement of various agents utilized;

(h) Methods of documenting the effectiveness of immediate and long-term effects of interventions;

(i) Characteristics of equipment including safe operation, adjustment, and care of the equipment; and

(j) Application and storage of specific pharmacological agents.

(3) The training and instruction shall include at a minimum eight (8) hours for an OTA/L and four (4) hours for an OT/L of hands on laboratory experience using DPAMs.

(4) All courses, workshops, or seminars utilized for DPAM Specialty Certification shall meet the requirements of subsection (2)(a) to (j) of this section, be at least four (4) hours in length, and [The programs shall be approved or recognized either by the American Occupational Therapy Association or the American Society of Hand Therapists or] be approved by the board.

(5)[(4)] A person or organization who is seeking board approval for training and instruction for DPAM courses, workshops, or seminars which are intended to meet the requirements of KRS 319A.080(4) shall submit a [“]DPAM Course, Workshop, or Seminar Provider Approval Application Form[“] to the board prior to the first occurrence of the DPAM course, workshop, or seminar. Once approved by the board, a DPAM course, workshop, or seminar may occur multiple times throughout the year of approval. A DPAM course, workshop, or seminar approval shall expire one (1) year after the approval date. A new DPAM Course, Workshop, or Seminar Provider Approval Application Form shall be submitted to the board on an annual basis.

Section 4. Supervised Treatment Sessions. (1) The supervised treatment sessions required for DPAM Specialty Certification shall be sufficiently detailed to allow the DPAM[Specialty Certification] supervisor to determine that the supervisee has demonstrated the following skills:

(a) The ability to evaluate or contribute to the evaluation of the client, depending upon the applicant's licensure status as an OT/L or an OTA/L and make an appropriate selection of the deep physical agent to be utilized;

(b) A thorough knowledge of the effects of the deep physical agent which is to be utilized;

(c) The ability to explain the precaution, contraindication, and rationale of the specific deep physical agent utilized;

(d) The ability to formulate and justify the occupational therapy intervention plan specifically delineating the adjunctive strategy associated with the use of each deep physical agent;

(e) The capability to safely and appropriately administer the deep physical agent;

(f) The ability to properly document the parameters of intervention which include the client's response to treatment and the recommendations for the progression of the intervention process; and

(g) The skills identified in paragraphs (d) and (f) of this subsection are not applicable to an OTA/L's practice and an OTA/L is not required to demonstrate the skill in a supervised treatment session.

(2) The supervised treatment sessions shall include one (1) session for each of the following areas:

(a) Iontophoresis;

(b) Ultrasound; and

(c) Electrical stimulation.

(3) The remaining two (2) sessions may cover any deep physical agent identified in KRS 319A.010(8) including those identified in subsection (2)(a) to (c) of this section.

(4) Supervised treatment sessions may be completed in a laboratory portion of an instructional course, provided that the instructor meets the board's requirements for a DPAM specialty certification supervisor and that all of the requirements of this administrative regulation have been met.

~~(5)[5-]~~ Treatment sessions shall be completed under the direct supervision of an OT/L[a person] who meets the requirements of subsection ~~(6)[(5)]~~ of this section and is approved by the board.

~~(6)[6-]~~ Before an OT/L[individual] may be a DPAM supervisor for the treatment sessions specified in this administrative regulation, he or she shall:

~~(a) Have a DPAM Specialty Certification issued by the board;~~

~~(b)[Be licensed or certified by a state agency that has the authority to permit the use of deep physical agent modalities;~~

~~(b) Be licensed at a level which permits the individual to fully and independently evaluate the client;~~

~~(e) Be in good standing with the board[that agency];[and]~~

~~(c)[(e)] **Submit a DPAM Specialty Certification Supervisor Application; and**~~

~~(d) Have one (1) year of clinical experience in the use of deep physical agent modalities.~~

~~(7) Individuals other than OT/Ls who have previously been approved as a DPAM supervisor under this administrative regulation shall maintain the status as a DPAM supervisor until **June 1[March 31], 2015**. After this time, only OT/Ls who meet the requirements of **subsection (6) of this section** shall remain active DPAM supervisors and be approved by the board.~~

(8) The issuance of the DPAM specialty certification by the board only shows that the applicant has met the minimum requirements of KRS 319A.080(4)(a). It shall be the duty of the individual licensee to determine his or her competency to provide a specific DPAM for a client.

Section 5. An OTA/L certified to use DPAMs under this administrative regulation may only use DPAMs when supervised by an OT/L certified to use DPAMs under this administrative regulation.

Section 6. Incorporation by Reference. (1) **The following material is incorporated by reference:**

(a) "DPAM Specialty Certification Application", February 2015;

(b) "DPAM Course, Workshop, or Seminar Provider Approval Application Form", February 2015; and

(c) "DPAM Specialty Certification Supervisor Application", February 2015[November 14, 2014, is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Occupational Therapy, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure for Occupational Therapy
(As Amended at ARRS, March 10, 2015)**

201 KAR 28:180. Temporary permits.

RELATES TO: KRS 319A.100

STATUTORY AUTHORITY: KRS 319A.070(1), (3)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3)(a) authorizes the board to promulgate administrative regulations and administer the provisions of

VOLUME 41, NUMBER 10 – APRIL 1, 2015

KRS Chapter 319A. KRS 319A.100 authorizes the board to issue a temporary permit to certain applicants for licensure. This administrative regulation sets forth the requirements for obtaining and practicing under a temporary permit.

Section 1. The applicant for a temporary permit shall submit the following items to the board for temporary permit consideration:

- (1) A completed application form for licensure as an occupational therapist as required by[defined in] 201 KAR 28:060 or submit a completed application form for licensure as an occupational therapy assistant as required by 201 KAR 28:060;
- (2) An official verification of the completion of educational requirements and fieldwork requirements from an educational program accredited by ACOTE or its equivalent;
- (3) A completed Supervision Temporary Permit Form from a licensed occupational therapist who is currently in good standing with the board, indicating that the licensed occupational therapist shall assume responsibility for the supervision of the temporary permit applicant in accordance with the requirements of 201 KAR 28:130, Section 6[2];
- (4) An official NBCOT Authorization to Test Form or its equivalent and evidence that an official NBCOT Score Transfer Report was requested to be sent to the Kentucky Board of Licensure for Occupational Therapy; and
- (5) The appropriate fee for licensure as required by 201 KAR 28:110.

Section 2. A temporary permit holder who is working towards becoming licensed as an occupational therapist or occupational therapy assistant who has been unsuccessful in passing the NBCOT or equivalent certification examination for a second time shall have the temporary permit revoked by the board[shall notify the board in writing within ten (10) calendar days from receiving notification from NBCOT the he/she has failed to pass the examination on the second attempt.

~~Section 3. If the examination is available on an ongoing, on-demand basis, a temporary permit shall be valid for up to 180 days from issuance by the board.~~

Section 3.[4.] Upon successful completion of the certification examination, a temporary permit holder shall be licensed by the board[immediately submit a copy of the NBCOT certification or its equivalent to obtain licensure].

Section 4.[5.] Incorporation by Reference. (1) "Supervision Temporary Permit Form", February 2015, is incorporated by reference.

(2) This material[It] may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Board of Licensure for Occupational Therapy, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov

**GENERAL GOVERNMENT CABINET
Kentucky Board of Licensure of Occupational Therapy
(As Amended at ARRS, March 10, 2015)**

201 KAR 28:200. Continuing competence.

RELATES TO: KRS 210.366, 319A.070(3)(d), 319A.160
STATUTORY AUTHORITY: KRS 319A.070(3)(a)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3) authorizes[allows] the board to promulgate administrative regulations and to establish[set forth] the requirements for continuing competence. This administrative

regulation establishes[sets forth] sets forth the requirements for licensees to demonstrate continuing competence.

Section 1. Definitions. (1) "CCU" means continuing competence unit.

(2) "Contact hour" means sixty (60) minutes engaged in a learning activity, excluding meals, breaks, and registration.

(3) "Continuing competence" means a dynamic, multidimensional process to develop and maintain the knowledge, skills, interpersonal abilities and critical and ethical reasoning necessary to perform occupational therapy professional responsibilities.

(4)[(2)] "Continuing competence unit" means an assigned unit of measure for each continuing competence activity for which the values are given in Section 3[(5)] of this administrative regulation.

[(3) "Contact hour" means sixty (60) minutes engaged in a learning activity, excluding meals, breaks, and registration.

(4) "CCU" means continuing competence unit.]

(5) "Training program in suicide assessment, treatment, and management" is defined by KRS 210.366(1)(b)[means a training program that contains suicide assessment including screening and referral, suicide treatment, and suicide management approved by the board].

Section 2. Continuing Competence Requirements. (1) A licensee applying for license renewal shall complete a minimum of twelve (12) CCUs of qualified activities for maintaining continuing competence during the preceding annual renewal period.

(2) A licensee who is issued a license for a period less than twelve (12) months shall prorate the number of CCUs to one (1) CCU for each month licensed.

(3) An applicant for reinstatement or licensure who was previously licensed by the board and whose license has been put on inactive status, revoked, or expired for three (3) years or less from the time the application is filed shall obtain twelve (12) CCUs of qualified activities for maintaining continuing competence for each year in which the license has been in the status prior to receiving the license.

(4) An applicant for licensure who was previously licensed by the board and whose license has lapsed for more than three (3) years shall obtain thirty-six (36) CCUs of qualified activities for maintaining continuing competence.

[(5) Beginning January 1, 2015, a licensee shall, at least once every six (6) years, complete six (6) hours of training in suicide assessment, treatment, and management that is approved by the board. During the implementation of this requirement, all practitioners licensed before the implementation date shall complete the first training by July 2016. A licensee applying for initial licensure or certification on or after the effective implementation date may delay completion of the first training required by this section for six (6) years after initial licensure if he or she can demonstrate successful completion of at least six (6) hours of academic training in suicide assessment, treatment, and management that:

(a) Was completed no more than six (6) years prior to the application for initial licensure; and

(b) Is listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center.]

Section 3. Qualified Activities for Maintaining Continuing Competence. The following activities qualify for the continuing competence requirements of this administrative regulation:

- (1) Continuing education courses.
 - (a) A licensee may earn one (1) CCU for each contact hour in continuing education courses including workshops, seminars, conferences, electronic courses, or self-study courses.
 - (b) Documentation for this activity shall include a certificate of completion or similar documentation including:
 - 1. Name of course, date, and the author or instructor;
 - 2. Name of sponsoring organization and the location of the course; and

VOLUME 41, NUMBER 10 – APRIL 1, 2015

3. The number of contact hours attended.

(c) A training program in suicide assessment, treatment, and management~~[training program attended to meet the requirements established in Section 2(5) of this administrative regulation]~~ shall total six (6) hours of CCU and be approved by the board.

(2) Employer provided in-service training.

(a) A licensee may earn one (1) CCU for each contact hour of in-service training provided to the licensee by the licensee's employer.

(b) No more than six (6) CCUs of employer-provided training may be counted towards the total number of required CCUs. If an employer hosts continuing education courses open to practitioners outside of the organization, these courses shall fall under subsection (1) of this section.

(c) Training that deals with issues completely unrelated to the practice of occupational therapy that are required for employment compliance standards shall not be counted toward the continuing competence requirements.

(d) Documentation for this activity shall include a certificate of completion or similar documentation including:

1. Name of course, date, and the instructor;
2. Name of providing organization and the location of the course; and
3. The number of contact hours attended.

(e) In-service training is structured training that is offered to an employee and that is intended to maintain or enhance the employee's job performance or to meet requirements that are imposed on the employer by a credentialing body.

(3) Academic coursework.

(a) Participation in on-site or distance learning academic courses from a university, college, or vocational technical adult education course related to the practice of occupational therapy shall be counted towards the requirements of this administrative regulation.

(b) A licensee may earn six (6) CCUs per credit hour.

(c) Documentation for this activity shall include:

1. An official transcript indicating successful completion of the course and the date on which the course was taken; and
2. A description of the course from the school catalogue or course syllabus.

(4) Independent study.

(a) Independent study may include reading books, journal articles, reviewing videos, and activities of a similar nature.

(b) A licensee may earn one (1) CCU for one (1) contact hour spent in an independent study activity.

(c) Documentation for this activity shall include:

1. Title, author, and publisher of the material;
2. The time spent on the material;
3. The date of completion; and
4. A statement that describes how the activity relates to a licensee's current or anticipated roles and responsibilities.

(d) No more than six (6) CCUs from this category shall be counted toward the total.

(5) Mentorship.

(a) Credit may be earned by each participant in a formalized mentorship agreement defined by a signed contract between the mentor and mentee that outlines specific goals and objectives and designates the plan of activities for the participants.

(b) A licensee may earn one (1) CCU for five (5) contact hours spent in activities directly related to achievement of goals and objectives under a mentorship agreement.

(c) Documentation for this activity shall include:

1. The name of mentor and mentee;
2. A copy of a signed agreement;
3. The dates, hours spent and focus of mentorship activities; and
4. A statement outlining the outcomes of mentorship agreement.

(6) Fieldwork supervision.

(a) Credit may be earned by participation as the primary clinical fieldwork educator for an OT or OTA fieldwork student.

(b) A licensee may earn one (1) CCU per forty (40) hours of

supervision for each fieldwork student supervised.

(c) Documentation shall include:

1. A written verification from the school to the fieldwork educator with the name of student, school, and dates of fieldwork or the signature page of the completed student evaluation form.

2. Evaluation scores and comments that are/should be deleted or blocked out.

(7) Professional writing.

(a) Credit may be earned by the publication of a book, chapter, or article.

(b) A licensee may earn:

1. Twelve (12) CCUs as an author of a book;
2. Six (6) CCUs as an editor of a book;
3. Six (6) CCUs as author of a chapter;
4. Four (4) CCUs as author of a peer reviewed article;
5. Two (2) CCUs as author of a nonpeer reviewed article;

(c) Documentation for this activity shall consist of full reference for publication including, title, author, editor, and date of publication; or copy of acceptance letter if not yet published.

(8) Professional presentations and instruction.

(a) Credit may be earned by the presentation of academic guest lectures, state or national workshops or conferences, and employer-provider in-service training for OT/Ls or OTA/Ls.

(b) A licensee may earn two (2) CCUs for each hour of credit that is awarded for an activity.

(c) Documentation for this activity shall include a copy of official program, schedule, or syllabus including presentation title, date, hours of presentation, and type of audience or verification of that signed by the sponsor.

(9) Research.

(a) Credit may be earned for the development of or participation in extensive scholarly research activities or extensive outcome studies.

(b) A licensee may earn one (1) CCU for one (1) contact hour spent working on a research project.

(c) Documentation for this activity shall include verification from the primary investigator indicating the name of research project, dates of participation, major hypotheses or objectives of the project, and licensee's role in the project.

(10) Grants.

(a) Credit may be earned for the development of a grant proposal.

(b) A licensee may earn one (1) CCU for one (1) contact hour spent working on a grant proposal.

(c) Documentation for this activity shall include name of grant proposal, name of grant source, purpose and objectives of the project, and verification from the grant author regarding licensee's role in the development of the grant if not the author.

(11) Professional meetings and activities.

(a) Participation in board or committee work with agencies or organizations in professionally related areas to promote and enhance the practice of occupational therapy may be counted toward the requirements of this administrative regulation.

(b) A licensee may earn one (1) CCU for five (5) contact hours on a committee or board.

(c) Documentation for this activity shall include:

1. The name of the committee or board, name of the agency or organization, purpose of service, and description of licensee's role; and

2. The participation shall be validated by an officer or representative of the organization or committee.

(d) No more than six (6) CCUs from this category shall be counted toward the total.

(12) Specialty certifications.

(a) The board shall recognize completion of activities that result in an advanced competence credential or specialty certification earned or recertified during the current renewal period.

(b) A licensee may earn up to twelve (12) CCUs for each advanced competence recognition or specialty certification credential earned or recertified during a renewal period.

(c) Documentation for this activity shall include a certificate of completion that identifies satisfactory completion of requirements for obtaining advanced competence recognition or specialty

certification.

(13) Continuing competence plan.

(a) A licensee may earn two (2) CCUs for completion of activities related to the development and implementation of a continuing competence plan for professional development.

(b) Documentation for this activity shall include a signed document by the licensee attesting to the fact that he or she has used a formal assessment process which included the establishment of professional development goals and objectives and a portfolio approach to organize and document continuing competence activities related to the licensee's plan.

(14) Volunteer services.

(a) Credit may be earned by participation in volunteer services performed for organizations, populations, or individuals if the services maintain or enhance the licensee's competence in professional skills in the practice of occupational therapy.

(b) A licensee may earn one (1) CCU for each five (5) contact hours.

(c) Documentation for this activity shall include verification letter from organizations and report of outcomes of services provided.

(d) No more than six (6) CCUs from this category shall be counted toward the total.

Section 4. Approval of Courses for Continuing Education Credit under Section 3(1) of this administrative regulation.

(1) A continuing education course shall be current in subject matter and relevant to the practice of occupational therapy.

(2) A continuing education course under Section 3(1) of this administrative regulation shall qualify for credit under this administrative regulation if it is approved by one of the following methods:

(a) The board shall approve a course or provider of a course that is administered or approved by:

1. A recognized national, state, or local occupational therapy association;
2. An accredited health care organization or facility; or
3. An accredited college or university.

(b) A continuing education course provider who does not come within the provisions of paragraph (a) of this subsection shall submit the following information to the board at least ninety (90) days prior to the presentation of the course:

1. A thorough course description;
2. A statement of the projected learning outcomes;
3. A statement of the target audience;
4. The content focus of the course;
5. A detailed agenda for the activity;
6. A statement of the number of contact hours requested;
7. A listing of the presenters and their qualifications; and
8. A sample of the certificate of completion awarded to successful attendees.

(c) A licensee who does not come within the provisions of paragraph (a) or (b) of this subsection shall submit to the following information to the board:

1. A thorough course description;
2. A statement of the achieved learning outcomes;
3. The content focus of the course;
4. A detailed agenda for the activity;
5. A statement of the number of contact hours requested;
6. A listing of the presenters and their qualifications; and
7. A sample of the certificate of completion awarded to successful attendees.

Section 5. Waiver of Requirements. Under extenuating circumstances, the board may waive all or part of the continuing competence activity requirements of this administrative regulations if an occupational therapist or occupational therapy assistant submits written request for a waiver and provides evidence to the satisfaction of the board of an illness, injury, family hardship, active military service, or other similar extenuating circumstance which precluded the individual's completion of the requirements on a case-by-case basis.

Section 6. Documentation and Reporting Procedures. (1) A licensee shall maintain the required proof of completion for each continuing competence activity as specified in these administrative regulations.

(2) The required documentation shall be retained by the licensee for a minimum of one (1) year following the last day of the license renewal period for which the continuing competence activities were earned.

(3) A licensee shall not send his or her continuing competence activity documentation to the board unless audited under Section 7 of this administrative regulation or otherwise requested by the board.

Section 7. Audit of Continuing Competence Activities. (1) The board shall perform a random audit of up to ten (10) percent of all licensees who shall be required by the board to furnish documentation of the completion of the appropriate number of continuing education hours for the current renewal period.

(2) A licensee who is audited shall respond to the audit within sixty (60) days of the date of the request.

(3) A licensee who fails to comply with the continuing competence activity requirements of this administrative regulation may be subject to disciplinary action that may include suspension or revocation of license.

Section 8. Other Provisions. (1) A licensee may not carry over continuing competence activity CCUs from one (1) licensure period to the next.

(2) A licensee may not receive credit for completing the same continuing competence activity more than once.

SCOTT DEBURGER, OTR/L

APPROVED BY AGENCY: November 13, 2014

FILED WITH LRC: November 14, 2014 at 9 a.m.

CONTACT PERSON: Jennifer Hutcherson, Board Administrator, Board of Licensure for Occupational Therapy, PO Box 1360, Frankfort, Kentucky 40602, phone 502-564-3296, ext. 226, fax 502-564-4818, Jennifer.Hutcherson@ky.gov.

**GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(As Amended at ARRS, March 10, 2015)**

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure.

RELATES TO: KRS 324A.010, 324A.030, 324A.035(1), (3), 324A.040(2), 324A.052

STATUTORY AUTHORITY: KRS 324A.035(1), (3), 12 U.S.C. 3331 - 3351

NECESSITY, FUNCTION, AND CONFORMITY: 12 U.S.C. 3331 through 3351 requires the board to promulgate administrative regulations for certification and licensure of appraisers of real property in federally related transactions. This administrative regulation establishes the types of appraisers required in federally related transactions, scope of the practice, and general requirements for certification or licensure.

Section 1. Types of Appraisers. An appraiser for a federally related transaction shall be a:

- (1) Certified general real property appraiser;
- (2) Certified residential real property appraiser;
- (3) Licensed real property appraiser; or
- (4) Associate real property appraiser.

Section 2. Scope of Practice. (1) Certified general real property appraiser. A certified general real property appraiser may perform appraisals of all types of real property.

(2) Certified residential real property appraiser. A certified residential real property appraiser may perform residential appraisals of one (1) to four (4) units.

(3) Licensed real property appraiser. A licensed real property

VOLUME 41, NUMBER 10 – APRIL 1, 2015

appraiser may perform appraisals of:

(a) Noncomplex, one (1) to four (4) residential units with a transaction value less than \$1,000,000; and

(b) Complex, one (1) to four (4) residential units with a transaction value less than \$250,000.

(4)(a) Associate. An associate real property appraiser may perform an appraisal of property that the supervising appraiser of the associate may appraise and shall be subject to the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040.

(b) A separate appraisal log shall be maintained for each supervising appraiser.

(c) The associate shall record in the log for each appraisal the following:

1. Type of property;
2. Client name and address;
3. Address of appraised property;
4. Description of work performed by the associate;
5. Scope of the review;
6. Scope of the supervision by the supervising appraiser;
7. Number of actual hours worked by the associate on the assignment; and
8. Signature and state certification number of the supervising appraiser.

(d) The associate shall be entitled to obtain copies of the appraisal reports he or she prepared. The supervising appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last.

(e) The supervising appraiser shall:

1. Have been certified by the board for a period of three (3) years;
2. Be in good standing with the board and shall not have received a suspension, a revocation, or other sanction that limited or prohibited that licensee's practice of real property appraising within the three (3) year period immediately prior to applying to become a supervision appraiser; and
3. Be responsible for the training and supervision of the associate.

(f) Only a certified general real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise~~who has been a Certified General Real Property Appraiser for three (3) years shall provide supervision for~~ a person acquiring experience toward a Certified General Real Property Appraiser certificate.

(g) ~~Any~~~~[A certificate holder who has been a]~~ certified general real property appraiser or a certified residential real property appraiser who satisfies the requirements of a supervising appraiser in paragraph (e) of this subsection may supervise~~for three (3) years shall provide supervision for~~ a person acquiring experience toward a Certified Residential Real Property Appraiser certificate.

(h) The supervising appraiser shall:

1. Accept responsibility for an associate's appraisal report by signing and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040;
2. Review reports by the associate;
3. Personally inspect each appraised property and the comparable sales with the associate on the associate's first fifty (50) real property appraisal assignments, to ensure that the associate is competent and is acting in accordance with the competency provision of the Uniform Standards of Professional Appraisal Practice, incorporated by reference in 201 KAR 30:040, for the property type;
4. Allow an associate who has completed the fifty (50) appraisal assignments required by subparagraph 3. of this paragraph to inspect properties located within fifty (50) miles of the supervisor's office without being accompanied by the supervisor, if the supervisor has determined pursuant to this administrative regulation that the associate is competent to perform an appraisal;
5. For the twelve (12) months following the date of issuance of an associate license, accompany the associate and inspect each

appraised property and the comparable sales on each appraisal assignment located more than fifty (50) miles from the supervisor's office;

6. Be limited to a maximum of three (3) real property associates at a time; and

7. Notify the board immediately if the supervision of a real property associate has terminated; and

8. Not be employed by an associate or by a company, firm, or partnership in which the associate has a controlling interest.

(i) A person otherwise qualified for supervising appraiser who has been disciplined by the board under KRS 324A.050 shall be subject to one (1) or more of the following, according to the severity of the prior violation:

1. Prohibited from supervising associates;
2. Limited to the number of associates to supervise; or
3. Be required to take additional courses approved by the board before being permitted to supervise an associate.

(j) An associate shall submit to the board two (2) complete summary appraisal reports.

1. The first report shall be submitted to the board six (6) months following the date of issuance of the associate license. The second report shall be submitted to the board twelve (12) months following the date of issuance of the associate license.

2. If necessary to determine the competency of the associate, the board shall request additional reports from the associate.

(5)(a) A first time supervisor and a new associate shall attend the board-approved course in supervision practices prior to beginning supervision or training.

(b) To be eligible to provide supervision, a supervisor shall attend the board-approved course in supervision practices every three (3) years.

Section 3. General Requirements for Certification or Licensure. **Except as provided by Section 4 of this administrative regulation**, certification or licensure, as appropriate, of the types of appraisers specified in Section 1 of this administrative regulation, shall be granted if an applicant:

(1) Has met the examination, education, experience, and fee requirements established by 201 KAR 30:050, ~~and~~ 30:060, **and 30:190**; and

(2) Applies to the board on the notarized Appraiser License/Certification Application.

Section 4. **Armed Forces Exemption. An applicant who was a member of a Reserve component of the US Armed Forces, who was pursuing an appraiser licensure or certification prior to December 1, 2011, and who was called to active duty between December 1, 2011 and December 31, 2014, may satisfy the examination, education, and experience requirements under the 2008 Real Property Appraiser Qualification Criteria instead of the requirements under Section 3(1) of this administrative regulation for a time period equal to the applicant's time of active duty, plus twelve (12) months.**~~[An individual who submits an application for one (1) of the Kentucky real property appraiser credentials listed in Section 1 of this administrative regulation who was a member of any Reserve component of the US Armed Forces and was pursuing an appraiser license or certification prior to December 1, 2011, and who was called to active duty between December 1, 2011 and December 31, 2014, may satisfy the qualifications required under the 2008 Criteria of the Appraiser Qualifications Board for an additional time period after January 1, 2015 that shall be equal to the applicant's time of active duty, plus twelve (12) months.]~~

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

(a) "Appraiser License/Certification Application", KREAB Form APP100, 1/09; **and**

(b) "Real Property Appraiser Qualification Criteria", 1/08, **is incorporated by reference.**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate

VOLUME 41, NUMBER 10 – APRIL 1, 2015

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 G. BRANTLEY, Chair

APPROVED BY AGENCY: November 21, 2014

FILED WITH LRC: January 14, 2015 at 4 p.m.

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

**GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(As Amended at ARRS, March 10, 2015)**

201 KAR 30:200. Reciprocity requirements for applicants licensed or certified in another state.

RELATES TO: KRS 324A.035(1), (3), 324A.065, 324A.075, 12 U.S.C. 3331-3351

STATUTORY AUTHORITY: KRS 324A.035(1), (3), 324A.075, 12 U.S.C. 3331 - 3351

NECESSITY, FUNCTION, AND CONFORMITY: 12 U.S.C. 3331 through 3351 requires the board to promulgate administrative regulations for certification and licensure of appraisers of real property in federally related transactions. KRS 324A.075 authorizes the board to issue a license or certification to a person licensed or certified in another state under certain requirements. This administrative regulation establishes the requirements for certification or licensure of persons licensed or certified in another state.

Section 1. General. A licensee from another state who seeks to obtain a certification or licensed residential real property appraiser credential in Kentucky by reciprocity shall obtain the Kentucky real property appraiser credential upon terms and conditions established in this administrative regulation.

Section 2. (1) An individual who is a certified residential, ~~or~~ a certified general, or a licensed residential real property appraiser out-of-state may apply for a Kentucky credential that is the same as the out-of-state certification held by that individual in the other state if the appraiser licensing program of the other state:

(a) Is in compliance with the provisions of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of Title XI Real Estate Appraisal Reform Amendments (12 U.S.C. 3331-3351) as administered by the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC); and

(b) ~~The credentialing requirements of the home state meets or exceeds the KREAB requirements that exist at the time the reciprocal application is submitted to the board~~ Meets or exceeds the minimum certification criteria established by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation upon application.

(2) To obtain a Kentucky certification issued by the board, an out-of-state applicant shall:

(a) Complete the notarized Reciprocal Appraiser License/Certification Application ~~for KREAB Appraiser Credential~~;

(b) ~~File with the board a letter of good standing, license history, the current National Registry Appraiser Report from the National Registry of the ASC, or other proof of good standing issued to the applicant for reciprocity by the out-of-state appraiser regulatory agency;~~

(c) Be identified on the National Registry of The Appraisal Subcommittee as an active certified real property appraiser that currently conforms to the AQB criteria;

(d) ~~Not have received disciplinary action that limited or stopped the ability to complete the practice of real property appraising; and~~

~~(d)(e)~~ Not have lost a license to practice any profession by revocation, suspension, or voluntary surrender.

(3) The out-of-state applicant shall indicate whether the applicant:

(a) Has had an application for certification or licensure as an appraiser denied by any agency within the Commonwealth or any other state, and if so, explain and submit with the application a copy of the denial notice;

(b) Has been reprimanded, fined, or had a license, certificate, or registration suspended, revoked, restricted, denied, or surrendered in the Commonwealth or in any other state, and if so, submit with the application:

- 1. A written explanation; and
- 2. A copy of any documentation that describes the charges and action taken by the agency;

(c) Is the subject of any pending investigation, administrative sanction proceeding, hearing, trial, or similar action by any agency that granted or denied the license, certificate, or registration, and if so, explain and submit with the application a copy of any documentation describing the charges;

(d) Has ever entered a plea of nolo contendere, been found guilty of, or been convicted of a felony, or within the last ten (10) years of a misdemeanor, and if so, submit with the application:

- 1. An explanation of the offense;
- 2. The location of the proceedings; and
- 3. A copy of all final court documents identifying the charges and assessing the penalties;

(e) Is awaiting trial or sentencing in any criminal proceeding, and if so, submit with the application:

- 1. An explanation of the facts of the alleged offense; and
- 2. The location of the proceedings; and

(f) Has had any disciplinary action brought against him or her as a member of any professional organization or trade association, and if so, submit with the application:

- 1. An explanation of the action;
- 2. A copy of any document reflecting the allegations; and
- 3. The final action or decision if rendered.

Section 3. Exemption from requirements. No provision of this administrative regulation shall be construed to prohibit the professional appraisal practice activities of any out-of-state certified appraiser who is performing the duties and responsibilities while a direct full-time employee of any entity of the United States government.

Section 4. Incorporation by Reference. (1) "Reciprocal Appraiser License/Certification Application ~~for KREAB Appraiser Credential~~", March 2015 ~~October 2014~~, 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.

LARRY DISNEY, Executive Director

APPROVED BY AGENCY: January 14, 2015

FILED WITH LRC: January 14, 2015 at 4 p.m.

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

VOLUME 41, NUMBER 10 – APRIL 1, 2015

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, March 10, 2015)

301 KAR 2:176. Deer control tags, ~~deer~~[and] destruction permits, and landowner designees.

RELATES TO: KRS 150.010,~~[150.170,]~~ 150.175, 150.360, 150.390, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.105, 150.170(7)

NECESSITY, FUNCTION, AND CONFORMITY:~~[KRS 150.105 allows the commissioner to authorize the destruction of wildlife causing damage.]~~ KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.105 authorizes the commissioner with the approval of the commission to destroy or bring under control wildlife causing damage. KRS 150.170(7) authorizes landowners, their spouses or dependent children, or a designee to destroy wildlife causing damage. It also authorizes the department to promulgate administrative regulations that establish procedures for the designee appointment process. This administrative regulation establishes the requirements for the issuance of~~[procedures under which]~~ deer control tags~~[may be taken to alleviate localized agricultural]~~ and deer destruction permits~~[.]~~ and establishes the requirements for the landowner designee appointment process~~[wildlife habitat damage until it is appropriate to apply deer herd stabilization or reduction measures on a county-wide basis through regular hunting seasons. It also establishes the requirements and procedures for taking deer outside the statewide seasons. EO 2008-516, effective June 16, 2008, reorganizes and renames the Commerce Cabinet as the Tourism, Arts and Heritage Cabinet].~~

Section 1. Definitions. (1) "Damage~~[to wildlife habitat]~~" means:

(a) The existence of a browse line caused by deer; or
(b) Damage to more than thirty-five (35) percent of native plant species preferred by deer.

(2) "Deer control tag" means a tag issued by the department ~~that~~which authorizes a hunter to take antlerless deer during an open deer season pursuant to 301 KAR 2:172.

(3) "Deer destruction permit" means written authorization from the department to take deer outside the hunting season framework ~~established~~set forth in 301 KAR 2:172.

(4) "Deer food plot" means a crop or cultivated plants grown to attract and feed deer.

(5) "Department representative" means a department employee who is qualified and authorized by the commissioner to assess deer damage.

(6) "Designee" means a person who has been designated by a landowner to remove wildlife causing damage on the landowner's property.

(7) "Landowner" means the person who has title to a particular property.

Section 2. Qualifying for Deer Control Tags. (1) A landowner with fewer than 1,000 contiguous acres shall qualify for deer control tags if:

(a) Deer hunting occurred on the property during the previous deer season;

(b) Standard deterrent measures recommended by a department representative have proven ineffective or are impractical; and

(c) A department representative certifies deer damage to crops, gardens, property, or wildlife habitat.

(2) A landowner with 1,000 contiguous acres or more shall qualify for deer control tags if:

(a) Deer hunting occurred on the property during the previous deer season;

(b) Deer seasons and bag limits as established~~[set forth]~~ in 301

KAR 2:172 are determined by a department representative to be inadequate to control deer populations on the property; and

(c) The landowner agrees to:

1. Follow the deer management practices recommended by the department; and

2. Supply the department with weight, age, and condition data of deer taken from the property.

(3) A department representative shall make an on-site inspection of each property for which a request for deer control tags has been made, unless the property:

(a) Has been previously inspected by the department and the landowner affirms that deer damage still exists; or

(b) Is immediately adjacent to property assessed by a department representative as having severe deer damage.

(4) A landowner whose property is immediately adjacent to property assessed by a department representative as having severe deer damage shall be issued deer~~[damage]~~ control tags upon request of the landowner.

(5) The department shall not issue deer control tags to a landowner whose only damage is to a deer food plot.

Section 3. Applying for Deer Control Tags. (1) A landowner shall request~~[wishing to apply for]~~ deer control tags by contacting~~[shall contact]~~ the department through:

(a) A conservation officer; or

(b) The private lands biologist for the county in which the property is located.

(2) If required by Section 2 of this administrative regulation, a department representative shall visit the property and assess the nature and extent of deer damage.

(3) A request for an assessment shall be made on or before September 30 to be eligible for current year deer control tags.

(4) A request for an assessment made after September 30 shall be considered for the following year.

Section 4. Number of Tags Issued. (1) The department shall determine the number of deer control tags to be issued for each property~~[landholding]~~ based on the recommendation of the department representative.

(2) Except as established~~[provided]~~ in Section 2(2) or (4) of this administrative regulation, the department shall not issue a deer control tag if:

(a) The county deer season is adequate to achieve the desired reduction in deer numbers; or

(b) Crop or environmental damage is not present.

Section 5. Transfer of Deer Control Tags. (1) Deer control tags shall be issued in the landowner's name.

(2) A landowner:

(a) May transfer a deer control tag to another person;

(b) Shall not issue more than five (5) deer control tags to an individual; and

(c) Shall require hunters to sign a deer control tag at the time of transfer.

Section 6. Use of Deer Control Tags. (1) A deer control tag shall not be valid except on the property~~[landholding]~~ for which it was issued.

(2) A deer control tag shall expire after the license year for which it was issued.

(3) A person who uses~~[using]~~ a deer control tag:

(a) Shall have in possession:

1. A valid deer control tag; and

2. A valid hunting license and current deer permit, unless exempt from license or permit requirements pursuant to KRS 150.170;

(b) May use deer control tags during archery, crossbow, modern~~[and]~~ gun, or muzzle-loader seasons to take antlerless deer;

(c) Shall not take more than five (5) deer per license year with deer control tags; and

(d) Shall abide by the provisions of 301 KAR 2:172, except that:

VOLUME 41, NUMBER 10 – APRIL 1, 2015

- 1. Antlered deer shall not be taken; and
 - 2. The deer control tag shall remain attached to the carcass until final processing or disposal.
- (4) Deer taken with a deer control tag shall not count toward the annual limit as established~~[specified]~~ in 301 KAR 2:172.

Section 7. Deer Destruction Permits. (1) The department may issue a deer destruction permit:

- (a) To a person authorized by the commissioner to remove deer that are or may become a public safety or environmental threat or that have entered a permitted captive cervid facility;
 - (b) To a landowner or the designee:
 - 1. Who continues to experience damage after being issued deer control tags; or
 - 2. Whose property cannot be hunted legally and deer are posing a public safety or environmental threat; or
 - (c) To a captive cervid facility permit holder or applicant:
 - 1. Whose fence meets the fencing and holding requirements in 301 KAR 2:083; and
 - 2. Who has attempted to remove wild deer using nonlethal methods or statewide deer seasons as established~~[set forth]~~ in 301 KAR 2:172.
- (2) A deer destruction permit shall specify:
- (a) The number and sex of deer to be destroyed;
 - (b) The method of destruction;
 - (c) The name of the person who will destroy the deer; and
 - (d) The dates during which the destruction will take place.
- (3) A deer destruction permit shall not be issued without the recommendation of a department representative~~[of the department]~~ and the approval of the commissioner.
- (4) A person who uses a~~[destroying]~~ deer destruction permit shall:

- (a) Attach a disposal permit provided by the department to each carcass;
- (b) Not remove the disposal permit until the carcass is processed or disposed of; and
- (c) If an antlered deer was taken, relinquish~~[turn]~~ the antlers~~[in]~~ to the department.
- (5) A deer destruction permit shall not be used except as specified on the permit.

Section 8. Designee Procedures and Requirements. (1) A landowner may appoint a designee to kill wildlife causing damage on the landowner's land.

- (2) The landowner and designee shall complete and submit to the department a Wildlife Damage Designee~~[Assistance]~~ Form~~[provided by the department]~~.
- (3) The department shall have thirty (30) days upon receipt of the Wildlife Damage Designee~~[Assistance]~~ Form to approve or deny a designee~~(6) Nothing in this administrative regulation shall prohibit a landowner or tenant from taking action to control deer that are posing a direct and immediate threat to life or property).~~

Section 9~~[8-]~~ Denial or Revocation or Deer Control Tags or Destruction Permits and Appeal Procedures. (1) The department shall~~[may]~~ revoke a deer control tag or destruction permit or~~[and]~~ deny a future tag or permit to a person who~~[-(a)]~~ fails to comply with the requirements of this administrative regulation~~[-(b) - Is convicted of a violation of 301 KAR 2:083, 2:132, 2:172, or 2:178].~~

(2) An individual whose request for a permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

Section 10. Incorporation by Reference. (1) "Wildlife Damage Designee Form", 2015 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, # 1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Eastern time.

KAREN WALDROP, Deputy Commissioner
For GREGORY K. JOHNSON, Commissioner
ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015
FILED WITH LRC: January 14, 2015 at 10 a.m.
CONTACT PERSON: Rose Mac, Department of Fish and Wildlife Resource, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 4060, phone (502) 564-7109, ext. 450, fax (502) 564-9136, email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, March 10, 2015)

301 KAR 3:100. Special commission permits.

RELATES TO: KRS 150.170, 150.175, 26 U.S.C. 501(c)(3)
STATUTORY AUTHORITY: KRS 150.025, 150.177, 150.195(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue a special permit to an incorporated nonprofit wildlife conservation organization. KRS 150.195(1) authorizes the department to promulgate administrative regulations pertaining to the issuance of licenses and permits. This administrative regulation establishes the requirements for the issuance and use of Special Commission Permits.

Section 1. Definitions. (1) "Proceeds" means the amount of money received by a wildlife conservation organization from the sale or transfer of a special permit minus expenses directly attributable to the sale of that permit.

(2) "Incorporated nonprofit wildlife conservation organization" means an entity that/which:

(a) Has a primary purpose, as expressed in its articles of incorporation or bylaws, to conserve and enhance fish and wildlife resources to provide opportunities for hunting, fishing, trapping, wildlife education, habitat enhancement, or~~[and]~~ related activities;

(b) 1. Holds status as a nonprofit organization pursuant to 26 U.S.C. Section 501(c)(3); and

2. [(e)] [(b)] Is incorporated under the laws of this state or any other state; or

(c) [(d)] [(e)] Holds a charter status under an incorporated parent organization~~[-]; and~~

(d) Whose purpose is to: 1. Conserve and enhance fish and wildlife resources; or 2. Provide opportunities for hunting, fishing, trapping, or other related activities).

(3) "Special commission permit" means a species-specific permit~~[for a species requiring an additional permit in order to hunt or fish which is]~~ issued by the Kentucky Fish and Wildlife Commission to an incorporated~~[a]~~ nonprofit wildlife conservation organization that allows the permit recipient, depending on the species listed on the permit, to harvest:

(a) One (1) additional antlered or antlerless deer per license year;

(b) One (1) additional turkey of either sex per license year;

(c) One (1) elk of either sex per license year; or

(d) Up to a daily bag limit of waterfowl per day.

Section 2. Issuance, Sale, and Transfer of Special Permit. (1) There shall be no more than ten (10) special commission permits issued per species per year.

(2) Any~~[(a) Any]~~ incorporated nonprofit wildlife conservation organization may apply for one (1) special commission permit per species. The incorporated nonprofit wildlife conservation organization shall accurately complete~~[by accurately completing]~~ a Special Commission Permits~~[Permit]~~ Application Form~~[provided by the department]~~.

(3) [(b)] A national organization and its affiliated regional, state, and local chapters shall all be eligible to apply for a special commission permit in the same year if~~[provided that]~~ each organization meets the definition~~[qualifications]~~ in Section 1(2) of this administrative regulation.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(4) A national organization and its affiliated regional, state, and local chapters shall not be eligible to be awarded more than one (1) special commission permit per species unless each applicant has a separate and distinct nonprofit organization status under 26 U.S.C. [§]501(c)(3) and a separate and distinct tax identification number.

(5)[(3)] In addition to the completed application, the organization shall also submit [the following]:

(a) 1. One (1) copy of the organization's articles of incorporation or bylaws that state the purpose of the organization; or

2. A separate charter status from a parent organization and the parent organization's articles of incorporation or bylaws that state the purpose of the parent organization;

(b) Written proof of the organization's tax-exempt status including the applicant's [individual] tax identification number; and

(c) A letter from the organization's parent organization, if applicable, that states that the chapter organization is in good-standing and is recognized by the parent organization.

(6)[(4)] The completed application and accompanying documents listed in subsection (5)[(3)] of this section shall be delivered to the department by May 1 of each year.

(7)[(5)] The items listed in paragraphs (a) through (e) of this subsection [following] shall be grounds for disqualification from the award [consideration] process:

(a) An incomplete application;

(b) Incomplete or missing accompanying documents, pursuant to subsection (5)[(3)] of this section;

(c) Failure to submit the required application and accompanying documents to the department by the May 1 deadline; [and]

(d) The wildlife conservation organization applicant did not use or transfer a special commission permit awarded in a previous year; [or] and]

(e) Failure to qualify as an incorporated nonprofit wildlife conservation organization.

(8)[(6)] Prior to selecting special commission permit recipients, the Fish and Wildlife Commission shall review and consider all applications and documents submitted by each wildlife conservation organization that has not been disqualified pursuant to subsection (5) of this section.

(9)[(7)] The department shall provide the Fish and Wildlife Commission with information concerning each applicant's relative standing with regard to:

(a) Content and quality of submitted application materials;

(b) Past compliance;

(c) Ability to generate [matching] funds; and

(d) The proposed conservation project's potential for enhancing [enhanced] fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation in Kentucky.

(10)[(8)] The Fish and Wildlife Commission shall select permit recipients based on the information listed in subsection (9)[(7)] of this section.

(11)[(9)] A Special Commission Permit recipient shall:

(a) Use all proceeds from the sale or transfer of the permit for conservation projects in Kentucky as approved by the Fish and Wildlife Commission;

(b) Underwrite all promotional and administrative costs for the selling and transferring of the permit;

(c) Sell and transfer each permit as stated in the application;

(d) Provide the department with the following information on each individual who receives a transferred permit:

1. Name;

2. Address; and

3. Date of birth; and

(e) Submit, by May 1 of the following year, a report that includes:

1. A financial statement containing:

a. Total funds raised;

b. Overhead costs or expenses related to the sale of the permit; and

c. Net profit;

2. A summary of:

a. The conservation project; and

b. Expenditures related to the conservation project; and

3. A synopsis of the impact the conservation project had on enhancing fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation.

Section 3. Special Permit Use. (1) A special permit shall only be valid for the:

(a) Individual named on the permit;

(b) Species of wildlife listed on the permit; and

(c) The first season for that species in the calendar year [Next season] following the quarterly commission meeting that the special permit was awarded, except for the special commission permit for deer and for waterfowl, which shall be valid for the first season following the quarterly commission meeting that the special permit was awarded.

(2) A special commission permit holder shall comply with all other department statutes and Title 301 KAR [administrative regulations].

(3) A holder of a special commission permit to hunt deer:

~~(a) Shall be entitled to take one (1) additional antlered or antlerless deer per license year; and~~

~~(b) may hunt on any Wildlife Management Area during an open deer season or nonmobility impaired quota hunt pursuant to 301 KAR 2:178, except:~~

~~(a) [1-] Hunting shall not be allowed on closed waterfowl refuges, pursuant to 301 KAR 2:222;~~

~~(b) [2-] A permit holder shall contact the wildlife area manager at least forty-eight (48) hours before hunting; and~~

~~(c) [3-] A permit holder shall notify the area manager upon leaving a Wildlife Management Area.~~

(4) A holder of a special commission permit to hunt wild turkey:

~~(a) Shall be entitled to take one (1) additional turkey of either sex per license year, in addition to the statewide permit limit; and~~

~~(b) shall not hunt on a Wildlife Management Area that is closed to turkey hunting.~~

~~(5) [A holder of a special commission permit to hunt elk shall follow the requirements established in 301 KAR 2:132.~~

(6) A holder of a special commission permit to hunt waterfowl may hunt on Ballard, Boatwright, or Sloughs Wildlife Management Areas from one (1) of the areas' permanent waterfowl blinds by:

(a) Contacting the department no later than September 30; and

(b) Reserving a blind for one (1) of the available hunt periods established by the department, pursuant to 301 KAR 2:222.

~~(6) [(7)] A holder of a special commission permit to fish for trout shall follow the requirements established in 301 KAR 1:060 and 1:201.~~

~~(8) A holder of any special commission permit may hunt [or fish] on private land with the permission of the landowner.~~

~~(7) [(9)] Unless specific equipment is prohibited on a Wildlife Management Area, a special permit holder shall only harvest game with hunting equipment that is allowed for the season during which the permit holder is hunting.~~

Section 4. Incorporation by Reference. (1) "Special Commission Permits Application Form", 2015 [2014] edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

KAREN WALDROP, Deputy Commissioner

For GREGORY K. JOHNSON, Commissioner

ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: January 9, 2015

FILED WITH LRC: January 14, 2015 at 10 a.m.

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-7109, ext. 4507, fax (502) 564-9136, email fwpubliccomments@ky.gov.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

KENTUCKY DEPARTMENT OF AGRICULTURE
Office of Consumer Protection
(As Amended at ARRS, March 10, 2015)

302 KAR 10:110. Egg lot consolidation.

RELATES TO: KRS 260.610

STATUTORY AUTHORITY: KRS 260.610(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.610(4) authorizes the Commissioner of the Department of Agriculture[department] to promulgate[the] administrative regulations governing the requirements for lot consolidation registration and to assess a fee to defray the costs of the registration program. This administrative regulation establishes the materials required to be provided in an approved training course, completion of which will allow a registered consolidator or a person under the consolidator's[their] supervision, to consolidate egg lots.

Section 1. Registration. (1) Training. A person may become registered to consolidate egg lots after having attended a training course approved by the department. Proof of attendance shall be submitted with the Egg Lot Consolidation Registration Form, Application for Registered Lot Consolidator.

(2) Registration Periods. The Egg Lot Consolidation Registration shall be valid for a period of two (2) years starting July 1[1st] of the initial fiscal year of application and terminating June 30[30th] of the second year. Registration forms submitted anytime after July 1[1st] of any year and prior to June 30[30th] of any year shall be deemed to have been active for one (1) year at the next July 1st calendar year.

(3) Fee. The fee for the Egg Lot Consolidation Registration shall be twenty (20) dollars for the two (2) year registration period. The fee shall be included with the Egg Lot Consolidation Registration form when the form is submitted to the department. The form and fee shall be sent to the address listed on the form.

(4) Relation to Egg License. Registration shall be independent of any other license, and shall follow the individual.

(5) Registration refusal, revocation, or suspension shall follow the rules set forth in 302 KAR 10:040.

Section 2. Store Requirements for Consolidation. (1) Each store location wishing to consolidate egg lots shall maintain a physical copy of the registration document of the store's egg lot consolidator.

(2) Each store shall maintain an Egg Lot Consolidation Log form. This form shall be maintained by the store at the physical location the eggs were consolidated for a period not less than thirty (30) days past the last sell by date on the cartons consolidated. The form may be:

(a) The Egg Lot Consolidation Log form provided by the department; or

(b) A store created proprietary form containing[, or may be a form of] the same name and[containing] the same required information as the department form[, if the store wishes to create a proprietary form].

Section 3. Consolidation. (1) Requirements. Eggs shall be consolidated[The eggs consolidated shall be done] in a manner consistent with training materials required by Section 4 of this administrative regulation. Each lot consolidation[of lots] shall be documented using an Egg Lot Consolidation form. Registered egg lot consolidators shall work at one (1) physical store location only.

(2) Supervision. Supervision of consolidation activities by the egg lot consolidator is not required to be line of sight.

Section 4. Training Materials. (1) Training courses shall be approved by the department if[so long as] the course teaches the following:

(a) Law governing egg lot consolidation:

1. Same lot code;
2. Same source;

3. Same sell by date;

4. Same grade;

5. Same size; and

6. Same brand;

(b) Temperature requirements;[;]

(c) Egg is a hazardous food (FDA Guidelines);

(d) Sanitation;

(e) No reusing dirty cartons (If no cartons available, eggs shall[must] be destroyed);

(f) No repacking ([i.e.]changing identity);

(g) Registration requirements;

(h) Egg quality (USDA guidelines);

(i) Original packaging required, [no] replacement cartons shall not[may] be utilized; and

(j) Egg Lot Consolidation Log.

(2) Approval. Training materials and topics shall be submitted in writing to the department at least thirty (30) days prior to the proposed training date. Once approved, the approval shall continue unless material changes are made to the materials included.

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

(a) "Egg Lot Consolidation Registration Form", January 2015; and

(b) "Egg Lot Consolidation Log Form", January 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Agricultural Marketing and Product Promotion, 100 Fair Oaks, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material is also available on the department Web site at www.kyagr.com.

JAMES R. COMER, Commissioner

APPROVED BY AGENCY: January 12, 2015

FILED WITH LRC: January 13, 2015 at 3 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 500 Mero Street, 7th Floor, Frankfort Kentucky 40601, phone (502) 564-4696, fax (502) 564-2133.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, March 10, 2015)

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", [March 10, 2015][December 29, 2014][November 25, 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)

VOLUME 41, NUMBER 10 – APRIL 1, 2015

KCIW 05-01-01	Outside Consultation, Research and Student Interns (Amended 2/14/13)	<u>KCIW 18-05-02 Youthful Offender (Added 12/15/14)</u>
KCIW 06-01-01	Offender Information (Amended 5/14/13)	<u>KCIW 18-05-03 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) (Amended 3/10/15)(Added 12/15/14)</u>
KCIW 08-02-01	Fire Safety Practices (Amended 2/14/13)	KCIW 19-01-01 Inmate Work and Program Assignments (Amended 12/29/2014[2/14/13])
KCIW 08-02-02	Fire Evacuation Routes (Amended 11/25/13)	KCIW 19-02-01 Governmental Services (Amended 2/14/13)
KCIW 09-01-02	Inmate Move Sheet (Amended 2/14/13)	KCIW 19-03-01 Landscape and Maintenance Work Details (Amended 2/14/13)
KCIW 09-06-04	Regulation of Inmate Movement (Amended 2/14/13)	KCIW 19-04-01 Correctional Industries (Amended 12/29/2014[2/14/13])
KCIW 09-10-01	Pedestrian and Vehicular Traffic (Amended 11/25/2013)	KCIW 20-01-01 <u>Educational[Education]</u> Programs (Amended 12/29/2014[11/25/13])
KCIW 09-10-02	Inmate Entry and Exit Procedure (Amended 5/14/13)	KCIW 21-01-01 Library Services (Amended <u>3/10/15[12/29/2014]</u> [11/25/13])
KCIW 09-11-01	Prohibiting Inmate Authority Over Other Inmates (Amended 2/14/13)	KCIW 22-01-01 Recreation and Inmate Activity (Amended 11/25/13)
KCIW 09-12-01	Search Plan (Amended 12/29/2014[2/14/13])	KCIW 22-01-02 Arts and Crafts Program (Amended 2/14/13)
KCIW 09-13-01	Tobacco Free Environment (Amended 11/25/13)	KCIW 22-01-04 Inmate Club Activities (Amended 11/25/13)
KCIW 09-13-02	Alcohol Detection (Amended 5/14/13)	KCIW 23-01-01 Religious Services (Amended 12/29/2014[2/14/13])
KCIW 10-01-01	Special Management Unit General Operations and Regulations (Amended <u>3/10/15[12/29/2014]</u> [11/25/13])	KCIW 24-01-01 Social Services Program (Amended 2/14/13)
KCIW 10-01-02	Special Management Unit Status, Placement and Review (Amended 2/14/13)	KCIW 24-02-01 Substance Abuse Program (Amended 2/14/13)
KCIW 10-01-04	Death Row (Amended 2/14/13)	KCIW 25-02-01 Temporary Release and Community Release (Amended 5/14/13)
KCIW 11-02-01	Menu Preparation and Special Diets (Amended 2/14/13)	KCIW 25-03-01 Funeral Home Visit or Bedside Visit (Amended 2/14/13)
KCIW 11-03-01	Food Service Operations (Amended 2/14/13)	KCIW 26-01-01 Volunteer Service Program (Amended 2/14/13)
KCIW 11-04-01	Health Regulations and General Guidelines for the Food Service Area (Amended 12/29/2014[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.
KCIW 11-07-01	Special Religious Diets (Amended 2/14/13)	LADONNA H. THOMPSON, Commissioner
KCIW 12-01-01	Laundry, Clothing, and Personal Hygiene (Amended <u>3/10/15[12/29/2014]</u> [2/14/13])	APPROVED BY AGENCY: December 16, 2014
KCIW 12-02-01	Pest Control (Amended 12/29/2014[2/14/13])	FILED WITH LRC: December 29, 2014 at 11 a.m.
KCIW 12-04-04	Sanitation Plan (Amended 11/25/13)	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.
KCIW 13-01-01	Provision of Medical and Dental Care (Amended 11/25/13)	
KCIW 13-01-02	Health Appraisal and Periodic Exams (Amended 2/14/13)	
KCIW 13-01-03	Pharmaceutical Services (Amended 11/25/13)	
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 <u>3/10/15[12/29/2014]</u> [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)	
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)	
KCIW 13-14-04	Injury Prevention (Added 2/14/13)	
KCIW 14-02-01	Access to Legal Resources and Services (Amended 12/29/2014[2/14/13])	
KCIW 15-06-01	Restriction Guidelines (Amended 2/14/13)	
KCIW 16-01-01	Inmate Correspondence (Amended 12/29/2014[2/14/13])	
KCIW 16-02-01	Access to Telephones (Amended 2/14/13)	
KCIW 16-03-01	Inmate Visiting (Amended <u>3/10/15[12/29/2014]</u> [5/14/13])	
KCIW 16-05-01	Inmate Packages (Amended 12/29/2014[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)	
KCIW 18-01-03	Honor Program (Amended 2/14/13)	
KCIW 18-05-01	Special Needs Inmates (Amended 11/25/13)	

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

TOURISM, ARTS AND HERITAGE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amended After Comments)

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

RELATES TO: KRS 150.010, 150.177, 150.180, 150.411(3), 150.990, 237.110

STATUTORY AUTHORITY: KRS 150.025(1), 150.170, 150.175, 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to ~~establish hunting seasons, bag limits, methods of taking, and to~~ promulgate administrative regulations to establish open~~establishing hunting~~ seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area~~of taking wildlife~~. KRS 150.170 authorizes exemptions for certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits to be issued by the department. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or Title 301 KAR~~its administrative regulations~~. This administrative regulation establishes deer hunting seasons and zones, legal methods of taking, and checking and recording requirements for deer hunting.

Section 1. Definitions. (1) "Additional deer permit" means a permit that allows the holder to take up to two (2) additional deer beyond those allowed by the statewide permit in the following combinations:

- (a) One (1) antlered deer and one (1) antlerless deer; or
- (b) Two (2) antlerless deer.

(2) "Adult" means a person who is at least eighteen (18) years of age.

(3) "Antlered deer" means a male or female deer with a visible antler protruding above the hairline.

(4) "Antlerless deer" means a male or female deer with no visible antler protruding above the hairline.

(5) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(6) "Arrow" means the projectile fired from a bow or crossbow.

(7) "Barbed broadhead" means a point or portion of a blade projecting backward from a broadhead designed to hold an arrow within an animal.

(8) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(9) "Deer" means a member of the species *Odocoileus virginianus*.

(10) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(11) "Fully automatic firearm" means a firearm that fires more than one (1) time with a single pull of the trigger.

(12) "License year" means the period from March 1 through the following last day of February.

(13) "Modern gun" means a rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(14) "Muzzle-loading gun" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(15) "Shotshell" means ammunition containing more than one (1) projectile.

(16) "Statewide deer permit" means a permit, which, in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

- (a) One (1) antlered deer and one (1) antlerless deer; or
- (b) Two (2) antlerless deer.

(17) "Statewide deer hunting requirements" means the season dates, zone descriptions, bag limits, and other requirements and

restrictions for deer hunting established in this administrative regulation.

(18) "Youth" means a person under the age of sixteen (16) by the date of the hunt.

(19) "Zone" means an area consisting of counties designated by the department within which deer hunting season dates and limits are set for the management and conservation of deer in Kentucky.

Section 2. License and Deer Permit Requirements. (1) Unless exempted by KRS 150.170, a person shall carry proof of purchase of a valid Kentucky hunting license and valid deer permit while hunting.

(2) In lieu of a statewide deer permit or a license or permit that grants statewide deer hunting privileges, a person possessing a valid junior statewide hunting license shall not use more than two (2) junior deer hunting permits.

(3) An additional deer permit shall not be valid unless accompanied by a valid Kentucky hunting license and a statewide deer permit or a license or permit that grants statewide deer hunting privileges.

Section 3. Hunter Restrictions. (1) A deer hunter shall not:

- (a) Take a deer except during daylight hours;
- (b) Use dogs, except leashed tracking dogs to recover a wounded deer;

(c) Take a deer that is swimming;

(d) From a vehicle, boat, or on horseback, take a deer, except that a hunter with a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform; and

(e) Possess or use a decoy or call powered by electricity from any source.

(2) A deer hunter shall not take a deer with any device except a firearm, crossbow, or archery equipment as authorized by Section 5 of this administrative regulation.

(3) A person shall not use any of the following items to take a deer:

- (a) Rimfire ammunition;
- (b) A fully automatic firearm;
- (c) A firearm with a magazine capacity greater than ten (10) rounds;

(d) Full metal jacketed ammunition;

(e) Tracer bullet ammunition;

(f) A shotshell containing more than one (1) projectile;

(g) An arrow or crossbow bolt without a broadhead;

(h) A broadhead smaller than seven-eighths (7/8) inch wide;

(i) A barbed broadhead;

(j) A crossbow without a working safety device;

(k) A chemically treated arrow;

(l) An arrow with a chemical attachment;

(m) Multiple projectile ammunition; or

(n) Any weapon that is not consistent with the appropriate season established in Section 5 of this administrative regulation.

Section 4. Hunter Orange Clothing Requirements. (1) During the modern gun deer season, muzzle-loader season, and any youth firearm season, a person hunting any species during daylight hours and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl.

(2) During an elk firearm season as established in 301 KAR 2:132, a person hunting any species and any person accompanying a hunter within the elk restoration zone, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl.

(3) The hunter orange portions of a garment worn to fulfill the requirements of this section:

(a) May display a small section of another color; and

(b) Shall not have mesh weave openings exceeding one-fourth

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(1/4) inch by any measurement.

(4) A camouflage-pattern hunter orange garment worn without additional solid hunter orange on the head, back, and chest shall not meet the requirements of this section.

Section 5. Statewide Season Dates. (1) A deer hunter may use archery equipment to hunt deer statewide from the first Saturday in September through the third Monday in January.

(2) A deer hunter may take deer with a modern firearm statewide beginning the second Saturday in November for:

- (a) Sixteen (16) consecutive days in Zones 1 and 2; and
- (b) Ten (10) consecutive days in Zones 3 and 4.

(3) A deer hunter may use a muzzle-loading gun to hunt deer statewide:

(a) For two (2) consecutive days beginning the third Saturday in October;

(b) For nine (9) consecutive days beginning the second Saturday in December; and

(c) During any season in which a modern gun may be used to take deer.

(4) A deer hunter may use a crossbow to hunt deer statewide:

(a) From October 1 through the end of the third full weekend in October;

(b) From the second Saturday in November through December 31; and

(c) During any season in which a firearm may be used to take deer.

(5) A legal resident hunter sixty-five (65) years or older may hunt with a crossbow from the first Saturday in September through the third Monday in January.

(6) Youth firearm season. For two (2) consecutive days beginning on the second Saturday in October, a youth deer hunter:

(a) May take antlered or antlerless deer and shall use a legal method to do so; and

(b) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

~~(7)(6)~~ There shall be a free youth weekend for two (2) consecutive days beginning on the Saturday after Christmas during which a youth:

(a) Shall not be required to have a hunting license or deer permit;

(b) May take antlered or antlerless deer and shall use a legal method to do so; and

(c) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

Section 6. Zones. (1) Zone 1 shall consist of Anderson, Ballard, Boone, Bracken, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Franklin, Fulton, Gallatin, Grant, Graves, Green, Harrison, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, McCracken, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Trigg, Trimble, Washington, and Woodford Counties.

(2) Zone 2 shall consist of ~~Allen~~, Bourbon, Boyd, Breckinridge, ~~Bullitt~~, Carter, Fayette, Fleming, Grayson, ~~Green~~, Greenup, Hardin, Hart, Henderson, ~~Hopkins~~, Jessamine, ~~Larue~~, Lawrence, Lewis, Logan, Mason, McLean, Mercer, Muhlenberg, ~~Nelson~~, Nicholas, Ohio, Todd, Union, and Webster Counties.

(3) Zone 3 shall consist of Adair, Allen, Barren, Bath, Boyle, Breckinridge, ~~Breckinridge~~, Butler, Casey, Clark, Cumberland, Daviess, Edmondson, Elliott, Estill, ~~Grayson~~, Hancock, Johnson, Lincoln, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Morgan, ~~Ohio~~, Powell, Rowan, Simpson, Taylor, Warren, and Wolfe Counties.

(4) Zone 4 shall consist of Bell, Breathitt, Clay, Clinton, Floyd, Garrard, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, Magoffin, Martin, McCreary, Menifee, Owsley, Perry, Pike, Pulaski, Rockcastle, Russell, Wayne, and Whitley Counties.

Section 7. Season and Zone Limits. (1) A person shall not take more than four (4) deer statewide in a license year except:

- (a) As authorized in 301 KAR 2:111, 2:176, 2:178, and 3:100;

and

(b) A person may take an unlimited number of antlerless deer in Zone 1 if the person has purchased the appropriate additional deer permits.

(2) A person shall not take more than one (1) antlered deer per license year, regardless of the permit type used, except as established in 301 KAR 2:111, 2:178, and 3:100.

(3) In Zone 3, a person may take two (2) deer with a firearm.

(4) In Zone 4, a person may take:

(a) Only two (2) deer with a firearm; and

(b) Only antlered deer during:

- 1. Modern firearm season;
- 2. Early muzzleloader season; and
- 3. The first six (6) days of the December muzzleloader season.

(5) The aggregate bag limit for Zones, 2, 3, and 4 shall be four (4) deer per hunter.

Section 8. Supervision of Youth Firearm Deer Hunters. (1) An adult shall:

(a) Accompany a person under sixteen (16) years old; and

(b) Remain in a position to take immediate control of the youth's firearm.

(2) An adult accompanying a youth hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.

Section 9. Harvest Recording. (1) Immediately after taking a deer, and prior to moving the carcass, a person shall record, in writing:

(a) The species taken;

(b) The date taken;

(c) The county where taken; and

(d) The sex of the deer taken on one (1) of the following:

1. The hunter's log section on the reverse side of a license or permit;

2. The hunter's log produced in a hunting guide;

3. A hunter's log printed from the Internet;

4. A hunter's log available from any KDSS agent; or

5. An index or similar card.

(2) The person shall retain and possess the completed hunter's log while the person is in the field during the current hunting season.

Section 10. Checking a Deer. (1) A person shall check a harvested deer by:

(a) Calling the toll free telecheck number at (800) 245-4263 or on the department's Web site at fw.ky.gov:

1. Before midnight on the day the deer is recovered; and

2. Prior to processing or removing the hide or head from the carcass;

(b) Providing the information requested by the automated check-in system; and

(c) Writing the confirmation number given by the system on the hunter's log authorized in Section 9 of this administrative regulation.

(2) If a hunter transfers possession of a harvested deer, the hunter shall attach to the carcass a hand-made tag that contains the following information:

(a) The confirmation number;

(b) The hunter's name; and

(c) The hunter's telephone number.

(3) A person shall not provide false information while:

a) Completing the hunter's log;

b) ~~Checking a deer;~~ or

c) Creating a carcass tag.

Section 11. Transporting and Processing Deer. (1) A person shall:

(a) Not transport an unchecked deer out of Kentucky;

(b) Have proof that a deer or parts of deer brought into Kentucky were legally taken;

(c) Not sell deer hides except to a licensed:

- 1. Fur buyer;

VOLUME 41, NUMBER 10 – APRIL 1, 2015

- 2. Fur processor; or
- 3. Taxidermist.

(2) A taxidermist or an individual who commercially butchers deer shall not accept a deer carcass or any part of a deer without a valid disposal permit issued by the department pursuant to KRS 150.411(3) or a proper carcass tag as established in Section 10 of this administrative regulation.

(3) An individual who commercially butchers deer shall keep accurate records of the hunter's name, address, confirmation number, and date received for each deer in possession and retain the records for a period of one (1) year.

CHARLES O. BUSH, Deputy Commissioner
 For GREGORY K. JOHNSON, Commissioner
 ROBERT H. STEWART, Secretary

APPROVED BY AGENCY: March 11, 2015
 FILED WITH LRC: March 13, 2015 at 11 a.m.

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-7109, ext. 4507, fax (502) 564-9136, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes deer hunting seasons and zones, methods of take, bag limits, harvest recording procedures, and checking requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to properly manage for a long-term, sustainable, and healthy deer population in Kentucky while providing reasonable and ample recreational opportunity for deer hunters.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the department to promulgate administrative regulations establishing hunting seasons, bag limits, and the methods to take wildlife. KRS 150.170 exempts certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits that are issued by the department. KRS 150.390 prohibits the taking of deer in any manner contrary to any provisions of Chapter 150 or its regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the seasons, zones, limits, procedures, and requirements authorized by 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: The amendment adjusts Allen County to a more conservative harvest zone and adjusts Hopkins, Larue, Green, Nelson, Bullitt, Grayson, and Ohio Counties to a more liberal harvest zone. It also allows residents sixty-five (65) or older to use a crossbow during the entire archery season.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to restrict doe harvest in Allen County and increase doe harvest in Hopkins, Larue, Green, Nelson, Bullitt, Grayson, and Ohio Counties. It allows residents sixty-five (65) or older to use a crossbow during the entire archery season.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: For the 2014 -15 deer season there were approximately 271,812 resident and 21,568 non-resident Kentucky deer hunters.

(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:

(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: Hunters in Menifee County will have to abide by the harvest restrictions for Zone 3. Hunters in Hopkins, Larue, Green, Nelson, and Bullitt Counties will have to abide by harvest restrictions for Zone 1. Hunters in Grayson and Ohio Counties will have to abide by the harvest restrictions for Zone 2. Resident hunters sixty-five (65) or older can now use a crossbow during the entire archery season.

(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 additional cost to hunters as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Reduction of doe harvest in Allen County by moving it to a Zone 3 should improve deer numbers and thus hunter satisfaction over time. The increase in doe harvest for Hopkins, Larue, Green, Nelson, Bullitt, Grayson, and Ohio Counties will slightly lower or maintain current deer numbers and thus balance the needs and desires of the hunting and non-hunting constituents of the counties.

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

(a) Initially: There will be no additional cost to the department to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It will not be necessary to increase a fee or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees will be established.

(9) TIERING: Is tiering applied? No. All deer hunters are subject to the same seasons, bag limits, and zone requirements for hunting.

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 Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted 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 150.025(1), KRS 150.170, KRS 150.175 and KRS 150.390(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.

(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? Direct revenue from the sale of all deer permits is estimated to be between \$3.5 and \$4.0 million based on recent years' sales.

(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? Revenue during subsequent years is dependent on the number of permits sold, which has been stable to slightly decreasing in recent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will no additional costs incurred 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:

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(Amended After Comments)**

601 KAR 1:112. Transportation network company.

RELATES TO: KRS 17.500, 61.878(1)(c)1, 186.281, 189.290, 189A.010, 281.600, 281.620, 281.630(2), 281.650, 281.655, 281.730(1), 281.912, 281.990, 304.39-020(2), 304.39-320, 532.060

STATUTORY AUTHORITY: KRS 281.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Department of Vehicle Regulation ("department") to promulgate administrative regulations to regulate and establish requirements for the safe operation of motor vehicles and motor carriers. This administrative regulation establishes the requirements for a transportation network company ("TNC") to operate in Kentucky.

Section 1. Definitions. (1) "Mobile application" means an application or a computer program designed to run on a smartphone, tablet computer, or other mobile device that is used by a TNC to connect TNC drivers with potential passengers.

(2) "Operating authority" means the authority granted to operate as a TNC in the Commonwealth through the application process with the department.

(3) "Prearranged ride" means the period of time that begins at the time a TNC driver accepts a requested ride through a TNC's digital network or mobile application, continues while the driver transports the rider in a personal vehicle, and ends at the time the rider departs from the vehicle.

(4) "Pre-trip acceptance liability policy" means the TNC insurance liability coverage that may apply if a TNC driver is logged into a TNC mobile application and available to receive requests for TNC services if the driver has not accepted a request, is not in route to pick up a passenger, or is not transporting a passenger.

(5) "Street hail" means a request for service made by a potential passenger by using hand gestures or verbal statements.

(6) "Transportation network company" or "TNC" means an entity operating in Kentucky as a motor carrier that uses a digital network or mobile application service to connect passengers to TNC drivers providing transportation network company services.

(7) "Transportation network company driver" or "TNC driver" means an individual who operates a motor vehicle that is owned or leased by the individual and used to provide transportation network company services.

(8) "Transportation network company services" or "TNC services" means the transportation of a passenger between points chosen by the passenger and prearranged with a TNC driver through the use of a TNC digital network or software application.

Section 2. Application. (1) A TNC shall register as a business with the Kentucky Secretary of State unless the applicant is a sole proprietor.

(2) A TNC shall submit a completed Transportation Network Company Authority Application, TC 95-627 and an application fee pursuant to KRS 281.620 to the Division of Motor Carriers.

(3) An application may be submitted electronically, by mail, or by hand delivery.

(4) A TNC shall submit an annual renewal fee to the Division of

Motor Carriers pursuant to KRS 281.650.

(5) Operating authority obtained pursuant to this section shall not be transferable.

(6) The following documents shall be submitted with an application and thereafter with each annual renewal:

(a) An affidavit from the corporate officer in charge of Kentucky operations certifying that the national criminal background check of TNC drivers established in Section 5 of this administrative regulation shall be completed prior to allowing the TNC driver to accept rides on the digital network; and

(b) One (1) copy of the current contractual agreement between the TNC and TNC drivers.

(7) A deficient application shall be returned to the applicant with no formal action taken by the department.

Section 3. Demonstration of Financial Responsibility and Insurance. (1) While engaged in a prearranged ride, a TNC shall have primary liability insurance coverage of no less than \$1,000,000 per occurrence for damages arising out of claims for bodily injury, death, or destruction of property.

(2) Primary liability insurance coverage during a prearranged ride shall include:

(a) Basic reparation benefits as defined in KRS 304.39-020(2);

(b) Uninsured vehicle coverage as established in KRS 304.20-020; and

(c) Underinsured vehicle coverage as established in KRS 304.39-320.

(3) While a TNC driver is logged into a TNC mobile application but prior to accepting a prearranged ride, a TNC shall maintain pre-trip acceptance liability insurance coverage for TNC drivers in accordance with subsection (4) of this section if:

(a) A TNC driver is logged into a TNC mobile application and is available to receive requests for transportation services from a passenger through the mobile application;

(b) A TNC driver has not accepted a request for TNC services through the mobile application;

(c) A TNC driver is not in route to pick up a passenger; and

(d) A TNC driver is not transporting a passenger to his or her destination.

(4) A TNC shall maintain a pre-trip acceptance liability insurance policy of no less than \$50,000 for death and personal injury per person, \$100,000 dollars for death and personal injury per incident, and \$25,000 dollars for property damage during the periods of time established in subsection (3) of this section. This policy shall provide coverage in the event the driver's personal motor vehicle liability policy does not provide coverage for an incident.

(5) The insurance coverage required by subsections (1) and (3) of this section may be provided either by an insurer licensed pursuant to KRS 304.3-070 or with a surplus lines insurer eligible under KRS 304.10-010 through KRS 304.10-070.

(6) The insurance coverage prior to a prearranged ride shall include basic reparation benefits pursuant to KRS 304.39-040.

(7) A certificate of liability insurance that meets the required insurance coverage under subsection (3) of this section on a standard Accord form shall be filed with the department for each policy.

(8) A TNC shall require TNC drivers to maintain a personal motor vehicle liability insurance policy that provides coverage in accordance with KRS 304.39 for the vehicle and TNC driver if the driver is not logged into the TNC's digital network or mobile application or engaged in a prearranged ride.

Section 4. Vehicles. (1) A vehicle used by a driver for TNC services shall be qualified by the department to operate by submitting a completed Transportation Network Company Authority Application, TC 95-627 and the minimum annual license fee pursuant to KRS 186.281(3) at the time of the application process established in Section 2 of this administrative regulation.

(2) The TNC shall ensure that the vehicles used by TNC drivers to transport passengers shall be subject to an annual safety inspection by an automotive technician who holds a valid automotive service excellence (A.S.E.) certification.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(3) A TNC shall collect and maintain information on the vehicles being used to provide service by TNC drivers including:

- (a) The VIN and license plate number; and
- (b) Records of official vehicle inspections by the automotive technician.

(4) Records of vehicle inspection and VIN and license plate numbers shall be kept by the TNC for a minimum of three (3) years from the date of inspection and the TNC shall make the records available to the department or its representative on request. The information and records may be submitted as proprietary information pursuant to KRS 61.878(1)(c)1.

(5)(a) A vehicle used to provide TNC services shall be readily identifiable by the following:

1. A decal affixed to the front windshield on the passenger side of the vehicle provided by the department to the TNC to distribute to qualified vehicles; and

2. An optional decal or trade dress that is company specific and issued by the TNC.

- (b) A vehicle fee receipt card shall be presented on inspection.

(6) A driver who is no longer providing TNC service shall return the department issued decal and the vehicle fee receipt card to the TNC who shall return it to the Division of Motor Carriers.

(7) A TNC shall ensure that the vehicles used by drivers to provide TNC services shall:

- (a) Have at least four (4) doors;
- (b) Be designed to carry no more than eight (8) persons including the driver; and

(c) Be no more than ten (10) model years old with an odometer reading of less than 200,000 miles.

Section 5. TNC Drivers. (1) A TNC shall require each driver to undergo a national criminal background check before providing TNC services. The background check shall be updated every three (3) years that a driver provides TNC services.

(2) The TNC shall submit verification of the background check via an affidavit to the department pursuant to Section 2 of this administrative regulation. The national criminal background check shall be either:

(a) A comprehensive background check using fingerprint analysis; or

- (b) An individual analysis using a social security number.

(3) The analysis required in subsection (1) of this section shall be conducted by a business or firm engaged in determining criminal background history.

(4) A TNC shall also require that each TNC driver:

(a) Is at least twenty-one (21) years old and the registered owner of the vehicle;

(b) Has a valid state-issued driver license and vehicle registration;

(c) Has personal automobile insurance coverage as established in Section 3 of this administrative regulation;

(d) Has completed an annual driver safety training course approved by the department;

(e) Provides a written or electronic affirmation that he or she is fit and able to operate a motor vehicle to provide TNC services; and

(f) Is in compliance with applicable state law and local ordinances.

(5) A current list of drivers shall be kept on file with the TNC and made available for inspection by the department on request. A TNC driver's electronic file shall include the following:

- (a) A current driving history record to be updated annually;
- (b) The current address of the driver;
- (c) A copy of a valid state-issued driver's license and the operator's license number;
- (d) Proof of his or her personal automobile insurance coverage;
- (e) Proof of personal vehicle registration;

(f) Proof of the written or electronic affirmation that a TNC driver is fit and able to operate a motor vehicle to provide TNC services;

(g) Verification of the criminal background check required in subsection (1) of this section;

(h) Records indicating whether a driver has refused to accept a prearranged ride and the reason for doing so; and

- (i) Records of complaints against a driver.

(6) A person shall not be a TNC driver whose driving history record shows a conviction of driving under the influence of alcohol or drugs in the previous five (5) years before application to become a driver.

(7) A TNC driver shall not provide transportation services if he or she has been convicted of one (1) of the following offenses:

- (a) A Class A felony;
- (b) A Class B felony;
- (c) An offense involving unlawful sexual behavior as established in KRS 17.500;

(d) Leaving the scene of a traffic accident;

(e) Causing a fatality or fatalities through negligent operation of a vehicle; or

(f) Using a vehicle in the commission of a felony involving the manufacture or distribution of a controlled substance; and

- (g) Four (4) moving violations in the past three (3) years or one

(1) major violation in the past three (3) years including:

- 1. Driving on a suspended license;
- 2. Speeding in excess of twenty-six (26) miles per hour; or
- 3. Reckless driving as established in KRS 189.290.

(8) A person who has been convicted in another jurisdiction of an offense comparable to one of the offenses in subsections (6) and (7) of this section shall not serve as a TNC driver.

Section 6. Passenger Service. (1) A TNC shall adopt a policy of non-discrimination based on the following:

- (a) Destination;
- (b) Race or color;
- (c) National origin;
- (e) Religious belief or affiliation;
- (f) Sex and sexual orientation or identity;
- (g) Disability;
- (h) Age; and
- (i) The presence of a passenger's service animal.

(2) A TNC shall notify TNC drivers of the adopted policy of non-discrimination established in subsection (1) of this section.

(3) After acceptance, a TNC driver may refuse to transport a passenger who is acting in an unlawful, disorderly, or endangering manner but shall comply with the non-discriminatory policy in subsection (1) of this section. A driver may also refuse to transport a passenger with a service animal if the driver has a documented medical allergy.

(4) A TNC driver shall not transport a passenger under the age of fourteen (14) unless accompanied by a person over the age of eighteen (18).

(5) A TNC shall establish policies regarding TNC driver behavior that shall include the following prohibitions:

(a) Being under the influence of alcohol or another substance or combination of substances that impair the driving ability while providing TNC services;

- (b) Accepting a street hail by a potential rider;

(c) Directly soliciting a passenger or responding to a direct solicitation; or

- (d) Providing services for cash.

(6) A driver shall immediately report the following to the driver's affiliated TNC:

(a) A refusal to transport a passenger and the reasons for the refusal within forty-eight (48) hours after the refusal where the refusal occurred after the ride had been accepted by the driver;

(b) Information regarding a driving citation, incident, or accident within twenty-four (24) hours after the event; or

(c) Information regarding a conviction within twenty-four (24) hours.

(7) A TNC shall provide the following information to the public on its Web site and mobile device application software:

(a) A schedule of its rates or the method used to calculate rates and peak pricing; and

(b) Information indicating a zero tolerance policy related to drug and alcohol usage by its drivers while performing TNC services and a passenger support telephone number or email

address where a suspected violation may be immediately reported.

(8) A TNC shall provide the following information to a person requesting a ride through its mobile application:

(a) ~~[A statement indicating that cash shall not be accepted in payment for the transportation service and that the acceptance of cash may invalidate insurance coverage in the event of an accident;~~

~~(b)]~~ The expected cost of the trip if requested by a potential passenger;

~~(b)](e)]~~ The first name and a photograph of the TNC driver accepting the ride request; and

~~(c)](d)]~~ A photograph or description, including license plate number, of the vehicle that will be used for the ride.

(9) At the completion of the prearranged ride, a TNC shall electronically provide the passenger with a receipt showing:

(a) The point of origin and destination of the ride;

(b) The duration and distance of the ride;

(c) The cost of the ride broken down into base fare and additional charges; and

(d) The driver's first name.

(10) Hours of service for a TNC driver shall be the same as established in KRS 281.730(1).

Section 7. Terms of Service. (1) The TNC shall not require a hold harmless or indemnification clause in the terms of service for a TNC driver or passenger that may be used to evade the insurance requirements of this administrative regulation and KRS Chapter 281.

(2) A TNC shall not disclose to a third party the personally identifiable information of a user of the TNC's mobile application unless:

(a) The TNC obtains the user's consent to disclose personally identifiable information;

(b) The disclosure is required to comply with a legal obligation;

or

(c) The disclosure is required to protect or defend the terms of use of the service or to investigate violations of the terms of use.

(3) A TNC may disclose a passenger's name and telephone number to the TNC driver in order to facilitate correct identification of the passenger by the driver, or to facilitate communication between the passenger and the driver.

Section 8. Penalties. (1) Penalties for a violation of the provisions of this administrative regulation shall be assessed pursuant to KRS 281.990.

(2) A TNC shall be responsible for an affiliated TNC driver's failure to comply with this administrative regulation if the driver's violation has been previously reported to the TNC in writing and the TNC has failed to take action within ten (10) days of the report.

Section 9. Incorporation by Reference. (1) "Transportation Network Company Authority Application," TC 95-627, November, 2014, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Vehicle Regulation, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained by accessing the department's Web site at <http://transportation.ky.gov/>.

MICHAEL W. HANCOCK, P. E., Secretary

RODNEY KUHL, Commissioner

D. ANN DANGELO, Office of Legal Services

APPROVED BY AGENCY: March 12, 2015

FILED WITH LRC: March 13, 2015 at 10 a.m.

CONTACT PERSON: D. Ann DAngelo, Asst. General Counsel, Transportation Cabinet, Office of Legal Services, 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 transportation network company to operate in the state of Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to address the growing use of online mobile applications to connect riders with vehicles for hire.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 281.600 authorizes the cabinet to promulgate administrative regulations to establish requirements for the safe operation of motor vehicles and motor carriers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will establish the regulatory requirements for the safe operation of a transportation network company.

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

(a) How the amendment will change this existing administrative regulation: This amendment will remove a statement indicating that the acceptance of cash for transportation service may invalidate insurance coverage.

(b) The necessity of the amendment to this administrative regulation: This amendment is made pursuant to comments received during a public hearing for 601 KAR 1:112.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 281.600 authorizes the Department of Vehicle Regulation within the Transportation Cabinet to establish requirements for the safe operation of motor vehicles and motor carriers.

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

(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 companies desiring to operate as a transportation network company and the cabinet's Division of Motor Carriers.

(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 business desiring to operating as a transportation network company will be required to submit an application and attachments to the department; ensure that a criminal background check is performed for each driver; ensure that a vehicle safety check has been performed on vehicles used to transport the public; and maintain up to date files on drivers.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): A transportation network company applying to operate in Kentucky will submit a fee pursuant to KRS 281.620; an annual renewal fee pursuant to KRS 281.650, and an annual license fee pursuant to KRS 186.281(3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): If compliant with the requirements of this regulation, businesses desiring to operate as transportation network companies will be granted operating authority.

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

(a) Initially: Approximately \$7,500

(b) On a continuing basis: Approximately \$1,000 annually

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: road 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: Fees shall be pursuant to statute.

(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 TNC applications for operating authority will be handled the same.

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? KYTC Division of Motor Carriers, 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 281.600

(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. Initial programming fees of approximately \$7,500 will affect the expenditures and revenue of the Division of Motor Carriers at KYTC.

(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 may generate approximate \$9,000 annually. The amount is dependent on the number of TNC vehicles qualified under the 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? This administrative regulation is not expected to generate revenue.

(c) How much will it cost to administer this program for the first year? Approximately \$7,500.

(d) How much will it cost to administer this program for subsequent years? Approximately \$1,000.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PROPOSED AMENDMENTS

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 4:080. Student aid applications.

RELATES TO: KRS 164.518, 164.744(2), 164.748(4), (7), (8), 164.753(3), (4), (6), 164.7535, 164.769, 164.780, 164.785, 164.7890, 164.7894, 34 C.F.R. 654.1-654.5, 654.30-654.52, 20 U.S.C. 1070d-31 - 1070d-41

STATUTORY AUTHORITY: KRS 164.518(3), 164.746(6), 164.748(4), 164.753(3), (6), 164.7535, 164.769(5), (6)(f), 164.7894(6), 34 C.F.R. 654.30, 654.41, 20 U.S.C. 1070d-37, 1070d-38

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) authorizes the Authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.7894(6) requires the authority to promulgate administrative regulations as may be needed for the administration of the Kentucky Coal County College Completion Program. This administrative regulation designates and incorporates the applications to be utilized under the grant, scholarship, and work-study programs administered by KHEAA.

Section 1. Applications. In order to participate in a specified grant, scholarship, or work-study program administered by the Kentucky Higher Education Assistance Authority, the following application forms shall be completed in accordance with their instructions:

(1) For the KHEAA Grant Program as set forth in 11 KAR 5:130, the [2014-2015] Free Application for Federal Student Aid (FAFSA);

(2) For the KHEAA Work-Study Program as set forth in 11 KAR 6:010, the KHEAA Work-Study Program Student Application;

(3) For the Teacher Scholarship Program as set forth in 11 KAR 8:030, the Teacher Scholarship Application;

(4) For the Early Childhood Development Scholarship Program as set forth in 11 KAR 16:010:

(a) The [2014-2015] Free Application for Federal Student Aid (FAFSA); and

(b) The Early Childhood Development Scholarship Application;

(5) For the Robert C. Byrd Honors Scholarship Program as set forth in 11 KAR 18:010:

(a) For high school and home school students, the Robert C. Byrd Honors Scholarship Program; and

(b) For GED recipients, the Robert C. Byrd Honors Scholarship Program GED Recipients;

(6) For the Go Higher Grant Program as set forth in 11 KAR 5:200;

(a) The [2014-2015] Free Application for Federal Student Aid (FAFSA); and

(b) The Go Higher Grant Program Application;

(7) For the Coal County Scholarship Program for Pharmacy Students as set forth in 11 KAR 19:010, the Coal County Scholarship Program for Pharmacy Students Application; and

(8) For the Kentucky Coal County College Completion Scholarship Program as set forth in 11 KAR 20:020:

(a) The [2014-2015] Free Application for Federal Student Aid (FAFSA); and

(b) The Kentucky Coal County College Completion Scholarship Application.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The "Free Application for Federal Student Aid July 1, 2015[2014] – June 30, 2016[2015]" (FAFSA), December 2014[2013];

(b) The "KHEAA Work-Study Program Student Application", July 2001;

(c) The "Teacher Scholarship Application", June 2006;

(d) The "Early Childhood Development Scholarship Application", April 2006;

(e) The "Robert C. Byrd Honors Scholarship Program", June 2009;

(f) The "Robert C. Byrd Honors Scholarship Program-GED Recipients", June 2009;

(g) The "Go Higher Grant Program Application", January 2008;

(h) The "Coal County Scholarship Program for Pharmacy Students Application", February 2011; and

(i) The "Kentucky Coal County College Completion Scholarship Application", October 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Higher Education Assistance Authority, 100 Airport Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material may also be obtained at www.kheaa.com.

LISA PAYNE, Chair

APPROVED BY AGENCY: February 26, 2015

FILED WITH LRC: March 11, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2015. 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: Ms. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation designates and incorporates the applications to be utilized under the grant, scholarship, and work-study programs administered by the Authority.

(b) The necessity of this administrative regulation: The Authority is required to promulgate administrative regulations pertaining to the administration of the Early Childhood Development Scholarship Program, KHEAA Work-study Program, Teacher Scholarship Program, College Access Program (CAP), Kentucky Tuition Grant (KTG), and Go Higher Grant Programs as well as the Robert C. Byrd Scholarship Program pursuant to KRS 164.518(3), 164.746(6), 164.748(4), 164.753(3), (6), 164.7535, 164.769(5), (6)(f), 164.7890, 164.7894, 34 C.F.R. 654.30, 654.41, and 20 U.S.C. 1070d-36, 1070d-37, 1070d-38.

(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 prescribing the applications to be utilized under the grant, scholarship and work-study programs administered by the Authority.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by prescribing and incorporating the various application forms to be used by students to apply for the financial aid programs administered by the authority.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

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

(a) How the amendment will change this existing administrative regulation: The amendment changes the existing regulation by specifying the latest version of the Free Application for Federal Student Aid (FAFSA) for the 2015-2016 academic year that is to be completed by applicants for participation in the student aid programs administered by the Authority.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary in order to require student recipients to complete the most recent version of the FAFSA.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by updating one of the applications required for participation in the student aid programs administered by the Authority.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the state student aid programs by requiring completion of the most recent version of the FAFSA in order to participate in said programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment to this administrative regulation will affect all those individuals who seek to apply for student financial aid through the Authority.

(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: Those individuals who seek to participate in the various student financial aid programs administered by KHEAA will be required to complete the most recent version of the FAFSA application as specified in this regulation in order to be considered for an award.

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

(a) Initially: There is no cost to implement this administrative regulation.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding source is required in order to implement this administrative regulation since it merely updates the required version of the FAFSA.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary 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: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

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? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.518(3), 164.746(6), 164.748(4), 164.753(3),

(6), 164.7535, 164.769(5), (6)(f), 164.7890, 167.7894, 34 C.F.R. §654.30, §654.41, 20 U.S.C. §1070d-36, 37, 38.

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 administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation.

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

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)

11 KAR 5:145. CAP grant award determination procedure.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535, 164.7889(3)

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4), 164.7889(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7889(3) requires the authority to promulgate an administrative regulation that increases both the maximum amount available under the grant programs, and increases the average income level for qualification for the grant programs if sufficient funds are available. This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

Section 1. Each application submitted pursuant to 11 KAR 4:080 and 11 KAR 5:130 shall be reviewed for determination that all eligibility requirements established in 11 KAR 5:034 are met. To qualify for a CAP award based on financial need, the applicant's expected family contribution shall be \$5,198[~~\$5,081~~] or less.

Section 2. CAP Grant Award. (1) Except as provided in subsection (2) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment on a full-time basis as determined by the educational institution in an eligible program shall be the lesser of:

(a) \$950; or
(b) The amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

(2) The maximum CAP grant in any semester for an applicant accepted for enrollment on less than a full-time basis as determined by the educational institution in an eligible program shall be:

(a) The amount specified in subsection (1)(a) of this section:
1. Divided by twelve (12); and
2. Multiplied by the number of credit hours in which the

VOLUME 41, NUMBER 10 – APRIL 1, 2015

applicant is accepted for enrollment; and

(b) Not in excess of the maximum specified in subsection (1)(b) of this section.

(3) For any academic year, a student shall not receive more than \$1,900 for an aggregate CAP grant award.

Section 3. (1) A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books.

(2) A KHEAA grant award shall not be made for a summer academic term.

Section 4. (1) A KHEAA grant award shall not exceed the applicant's cost of education less expected family contribution and other anticipated student financial assistance.

(2) The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the determination of financial need for that student.

(3) The KHEAA Grant Program Officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

(4) If the applicant's expected family contribution, disbursed KHEAA grant amount, plus other student financial assistance exceeds his need, the excess shall be considered to be an overaward. If an overaward occurs, this amount shall be returned to the authority immediately.

Section 5. (1) If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked.

(2) If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 6. If the educational institution receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant, and:

(1) If the grant has not yet been disbursed for the fall academic term, the reduction shall be made to both the fall and spring disbursements, and the educational institution shall notify the student of the reduction;

(2) If the grant for the fall academic term has already been disbursed and the student enrolls for the spring academic term, the reduction shall be made to the spring disbursement, and the educational institution shall notify the student of the reduction;

(3) If the grant for the fall academic term has already been disbursed and the student does not enroll for the spring academic term, the educational institution shall notify the student of the fall overaward and the student shall repay the overaward to the authority; or

(4) If both the fall and spring disbursements have been made, the educational institution shall notify the student of the overaward and the student shall repay the overaward to the authority.

Section 7. (1) Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant.

(2) Any student who is awarded a KHEAA grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

LISA PAYNE, Chair

APPROVED BY AGENCY: February 26, 2015

FILED WITH LRC: March 11, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being

heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2015. 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: Ms. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

(b) The necessity of this administrative regulation: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that students applying for a CAP grant meet the required financial need criteria and those students receive the maximum CAP grant allowed for any academic period.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation merely increases the maximum expected family contribution level necessary to demonstrate financial need for eligibility for the CAP grant program.

(b) The necessity of the amendment to this administrative regulation: The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit for participation in the CAP grant program.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit under the CAP grant program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment merely establishes the maximum expected family contribution level for eligibility for participation in the CAP grant program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Students at a total of fifty-eight (58) Kentucky postsecondary institutions currently participate in the CAP grant program. In the academic year ending June 30, 2014, there were 290,300 applicants for CAP grant awards. A total of 39,752 students received KHEAA grant awards during that period.

(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: Those individuals who seek to participate in the CAP grant program will benefit by the increase in the expected family contribution (EFC) limit. Specifically, students with a higher EFC will be eligible to

participate in the program up to the maximum limit established in the amendment.

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

(a) Initially: The amendment to this administrative regulation increases the maximum expected family contribution level necessary to demonstrate financial need, making grants potentially available to more students. However, the amount of the grant, the funds available for grants, and, in general, the overall cost of administering the program will neither increase nor decrease.

(b) On a continuing basis: See 5(a) above.

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

Grants for students under the College Access Program are funded from net lottery revenues transferred to the authority for grant and scholarship programs, while administrative costs are borne by the authority through agency receipts.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or 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: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

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? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.748(4), 164.753(4), 164.7889(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. The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student and Administrative Services (Amendment)

11 KAR 15:010. Definitions for 11 KAR Chapter 15.

RELATES TO: KRS 164.7871-164.7885, 20 U.S.C. 1087II

STATUTORY AUTHORITY: KRS 164.748(4), 164.7885(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.7885(7) requires the authority to promulgate administrative regulations for the administration of the Kentucky Educational Excellence Scholarship Program. This administrative regulation establishes the definitions for 11 KAR Chapter 15.

Section 1. Definitions. (1) "Academic term" is defined in KRS 164.7874(1) and 13 KAR 2:090, Section 1(1).

(2) "ACT score" is defined in KRS 164.7874(3).

(3) "Authority" is defined in KRS 164.7874(4).

(4) "Award period" is defined in KRS 164.7874(5).

(5) "Correspondence course" means a home study course that:

(a) Is provided by an educational institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution;

(b) Meets the following requirements:

1. When a student completes a portion of the instructional materials, the student takes the examinations that relate to that portion of the materials, and return the examinations to the institution for grading;

2. The institution provides instruction through the use of video cassettes or video discs in an academic year unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at an institution during the same academic year; and

3. If a course is part correspondence and part residential training, the course shall be considered to be a correspondence course; and

(c) Does not include courses from the Kentucky Commonwealth Virtual University (KCVU).

(6) "Council" is defined in KRS 164.7874(7).

(7) "Cumulative grade point average" means the total grade point average for a postsecondary education student as reported by the postsecondary education institution where the student is currently enrolled.

(8) "Eligible high school student" is defined in KRS 164.7874(8).

(9) [(8)] "Eligible postsecondary student" is defined in KRS 164.7874(9).

(10) [(9)] "Eligible program of study" means, for purposes of enrollment in a participating institution, a postsecondary, undergraduate program that:

(a)1. Leads to a certificate, diploma, or associate or baccalaureate degree;

2. Is designated as an equivalent undergraduate program of study by the council in an administrative regulation; or

3. Is a degree program in a field of study that is not available at any participating institution in the Commonwealth but is offered at an out-of-state institution designated by the council as an approved participating institution; and

(b) May include study abroad or away from the main campus if the student pays tuition to, and is given academic credit by, the participating institution for the study, except that a correspondence course shall not be included.

(11) [(10)] "Full-time student" is defined in KRS 164.7874(10).

(12) [(11)] "Grade point average" is defined in KRS 164.7874(11).

(13) [(12)] "High school" is defined in KRS 164.7874(12).

(14) [(13)] "KEES" is defined in KRS 164.7874(13).

(15) [(14)] "KEES Program officer" means the official designated on the administrative agreement, pursuant to KRS

VOLUME 41, NUMBER 10 – APRIL 1, 2015

164.748(6) and 164.7874(18), to serve as the participating institution's on-campus agent to certify all institutional transactions and activities with respect to the Kentucky Educational Excellence Scholarship Program.

(16)((+5)) "Kentucky Educational Excellence Scholarship" is defined in KRS 164.7874(15).

(17)((+6)) "Maximum award amount" is defined in KRS 164.7874(17).

(18)((+7)) "Participating institution" is defined in KRS 164.7874(18).

(19)((+8)) "Part-time student" is defined in KRS 164.7874(19).

(20)((+9)) "Supplemental award" is defined in KRS 164.7874(20).

LORI PAYNE, Chair

APPROVED BY AGENCY: February 26, 2015

FILED WITH LRC: March 11, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2015. 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: Ms. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines terms commonly used in administration of the Kentucky Educational Excellence Scholarship Program (KEES) under Chapter 15 of Title 11 of the Kentucky Administrative Regulations.

(b) The necessity of this administrative regulation: KRS 164.7885(7) requires the authority to promulgate administrative regulations for the administration of the KEES Program. This administrative regulation is necessary to establish the definitions for 11 KAR Chapter 15.

(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 definitions applicable to the KEES program as authorized by KRS 164.7885(7).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation defines terms used in Chapter 15 of Title 11 of the Kentucky Administrative Regulations pertinent to the KEES program to ensure that the scholarship is awarded to eligible students.

(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 add the definition of "Cumulative GPA" to this administrative regulation. This is already a defined term for purposes of the KEES program. Said term is being removed from 11 KAR 15:090 and being inserted in the KEES definitional regulation instead.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is

necessary in order to insure that all definitions applicable to the KEES program are contained in the appropriate reservation.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes permit KHEAA to develop definitions for administration of the KEES program. This amendment conforms to the authorizing statutes by incorporating this defined term into a more appropriate regulation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist in the effective administration of the statutes by adding a defined term to this administrative regulation, the definitional regulation for the KEES program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: No individuals or groups will be affected by this change. The term "Cumulative GPA", as defined, will continue to be applicable to the KEES program.

(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: See (3) above.

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

(a) Initially: There is no cost to implement this administrative regulation.

(b) On a continuing basis: See 5(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The KEES program is funded through net lottery revenues transferred in accordance with KRS 154A.130.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary 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: This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

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? Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.7874, 164.7877(3), 164.7879(1), (2), (3), 164.7881(4)(a), (c), (6).

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 administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities,

VOLUME 41, NUMBER 10 – APRIL 1, 2015

counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No costs are associated with this regulation.

(d) How much will it cost to administer this program for subsequent years? No costs are associated with this regulation.

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

- Revenues (+/-):
- Expenditures (+/-):
- Other Explanation:

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(Amendment)**

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

RELATES TO: KRS 154A.130(4), 164.7871, 164.7874, 164.7877, 164.7879, 164.7881, 164.7885, 164.7889

STATUTORY AUTHORITY: KRS 164.7874, 164.7877(3), 164.7879(1), (2), (3), 164.7881(4)(a), (c), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7877(3) requires the Authority to administer the Kentucky Educational Excellence Scholarship (KEES) trust fund. KRS 164.7874(16) requires the Authority to determine the KEES curriculum's courses of study. KRS 164.7879(3)(d) requires the Authority to determine the eligibility of a noncertified, nonpublic high school graduate and of a GED recipient for a supplemental award. KRS 164.7874(3) requires the Authority to establish a table to convert an SAT score to an ACT score. KRS 164.7881(6) requires the Authority to establish a five (5) year postsecondary education program standard. KRS 164.7881(4)(a) requires the Authority to establish overall award levels for the program. KRS 164.7879(2)(c) requires the Authority to determine eligibility for children of parents who are in the military and who claim Kentucky as their home of record. KRS 164.7881(4)(c) requires the Authority to identify equivalent undergraduate programs of study. This administrative regulation establishes those requirements relating to the Kentucky Educational Excellence Scholarship (KEES) Program.

Section 1. Definitions. (1) "Academic term" means the fall or spring semester or their equivalence under a trimester or quarter system at a postsecondary education institution and does not include summer sessions.

(2) "Accredited out-of-state high school" means a high school that is:

- (a) Located in a state other than Kentucky or in another country; and
- (b) A member of an organization belonging to the Commission on International and Trans-Regional Accreditation.

(3) "ACT" means the test:

- (a) Administered to a student for entrance to a Kentucky postsecondary education institution; and
- (b) Owned by the ACT Corporation of Iowa City, Iowa.

(4) "Advanced placement" is defined by KRS 158.007(1).

(5) "Course" means the equivalent of one (1) credit as determined by KDE in 704 KAR 3:305.

(6) "~~Cumulative grade point average~~" means ~~the total grade point average for a postsecondary education student as reported by the postsecondary education institution where the student is currently enrolled.~~

(7) "Department of Defense school" means a school operated by the U. S. Department of Defense for the purpose of providing a high school education to a child whose custodial parent or guardian is in active military or diplomatic service in a state other than Kentucky or in another country.

(8) "~~Dual credit~~" is defined in KRS 158.007(8).

(9) "Enrolled" means the status of a student who has

completed the registration requirements, except for the payment of tuition and fees, at a participating postsecondary education institution that the student is attending.

(9) "~~Free and Reduced Price Lunch~~" means the National School Lunch program established by the United States Department of Agriculture to provide subsidized meals to lower income students.

(10) "~~GED~~" means a general educational development diploma awarded to a student.

(11) "~~International baccalaureate~~" is defined by KRS 158.007(10).

(12) "~~KDE~~" means the Kentucky Department of Education authorized and established pursuant to KRS 156.010.

(13) "~~SAT~~" means the test:

- (a) Administered to a student for entrance to a Kentucky postsecondary education institution; and
- (b) Owned by the College Board.

Section 2. High School Grade Point Average Calculation and Reporting. (1) An eligible high school student's grade point average for an academic year shall be calculated using each letter grade awarded for all courses taken during an academic year. The grading scale cutoff scores used to determine the letter grade for each course shall be the same as those used to determine the letter grade for each course reported on the student's official high school transcript.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, an eligible high school student's grade point average shall be calculated by:

1. Taking the number of units in a course multiplied by the course grade as expressed on a 4.0 point grading scale where 4.0 is an "A", 3.0 is a "B", 2.0 is a "C", 1.0 is a "D", and 0.0 is an "F";

2. Adding the total number of points accumulated for an academic year; and

3. Dividing the total number of points accumulated in subparagraph 2 of this paragraph by the total number of units for the academic year.

(b) For an eligible high school student taking an advanced placement or international baccalaureate course during the academic year, the course grade assigned shall be calculated using a 5.0 point scale where 5.0 is an "A", 4.0 is a "B", 3.0 is a "C", 2.0 is a "D", and 1.0 is an "F".

(c) Beginning with the academic year 2015-2016, for an eligible high school student taking a dual credit course during the academic year, the course grade assigned shall be calculated using a 5.0 point scale where 5.0 is an "A", 4.0 is a "B", 3.0 is a "C", 2.0 is a "D", and 1.0 is an "F". This weighted scale shall not be applicable to a remedial course.

(3) The grade point average reported for an eligible high school student for each academic year shall include all information as set forth in KRS 164.7885(1) and be submitted to the authority in either an electronic or hard copy format.

(4) A high school student who participated in an educational high school foreign exchange program or the Congressional Page School that was approved by the student's local high school shall have the student's grade point average reported in accordance with KRS 164.7879(2)(b).

Section 3. High School Students of Custodial Parents or Guardians in Active Military Service. (1)(a) For purpose of determining eligibility under the provisions of KRS 164.7879(2)(c), a high school student shall establish that the custodial parent or guardian meets the requirements of KRS 164.7879(2)(c)1a and b and shall submit the Home of Record Certification Form to the Authority.

(b) The Authority annually shall notify the eligible high school student and the custodial parent or guardian of the student's eligibility.

(2)(a) A high school student, determined to be eligible for the KEES program under the terms of KRS 164.7879(2)(c) and subsection (1)(a) of this section, shall be responsible for:

- 1. Requesting grade and curriculum information from the local school; and

VOLUME 41, NUMBER 10 – APRIL 1, 2015

2. Requesting that the local school submit the information to the Authority using the Curriculum Certification Form and the Data Submission Form.

(b) Upon receipt of curriculum and grade information from an accredited out-of-state high school or Department of Defense school for a student determined to be eligible for the KEES Program under this section, the authority shall:

1. Verify that the submitted curriculum meets the requirements of Section 4 of this administrative regulation;
2. Verify that the out-of-state high school or Department of Defense school is an accredited high school; and
3. Retain the Curriculum Certification Form on file until the student's eligibility has expired.

Section 4. Postsecondary Student Eligibility and KEES Curriculum. (1) A Kentucky postsecondary student shall be eligible to receive a base scholarship award if the student:

- (a) Has earned a base scholarship award in high school;
- (b) Has completed the KEES curriculum as set forth in subsection (2) of this section;
- (c) Has graduated from a Kentucky high school except as provided in Section 2(4) or 3 of this administrative regulation; and
- (d) Is enrolled in a participating institution in an eligible program.

(2) Except as provided in subsection (4) of this section, the KEES curriculum shall consist of the curriculum standards established in 704 KAR 3:305.

(3) A student who graduates from high school at the end of the fall semester of his or her senior year and who meets the requirements of KRS 164.7874(7) shall be eligible to earn a KEES award for that year upon:

- (a) Completion of no fewer than three (3) courses of study; and
- (b) Satisfying the provisions of KRS 164.7879.

(4) Except as provided in subsection (5) of this section, a high school may substitute an integrated, applied, interdisciplinary, or higher level course for a required course or required academic and career interest standards-based learning experience if:

(a) The course provides the same or greater academic rigor and the course covers or exceeds the minimum required content areas established in 703 KAR 4:060; or

(b) The course is an honors course, cooperative education course, advanced placement course, international baccalaureate course, dual credit course, or a course taken at a postsecondary education institution.

(5) Beginning with the 2012-2013 academic year, only one (1)

cooperative education course per academic year shall count for purposes of satisfying KEES curriculum requirements.

(6) A high school annually shall provide written documentation to a student on whether the student's schedule of coursework meets the requirements of the KEES curriculum.

Section 5. Eligible Postsecondary Education Programs. (1) An eligible program shall be a certificate or degree program offered by a participating institution and recognized by the Authority.

(2) An eligible program at an out-of-state participating institution shall be limited to those programs that qualify through the Academic Common Market administered by the Southern Regional Education Board except as provided in subsection (4) of this section.

(3) Pursuant to KRS 164.7881(6), the following academic programs at Kentucky postsecondary education institutions shall be approved as five (5) year baccalaureate degree programs:

- (a) Landscape architecture (04.0601); and
- (b) For students that graduated from high school not later than the 2004-2005 academic year, engineering if enrollment in the engineering program has been continuous (14.0101, 14.201, 14.0301, 14.401, 14.501, 14.0701, 14.0801, 14.0901, 14.1001, 14.1201, 14.1301, 14.1401, 14.1701, 14.1801, 14.1901, 14.2101, 14.2301, 14.2401, 14.2801, 14.9999.01, 14.3501).

(4) Pursuant to KRS 164.7881(4)(c)1, an academic program shall be designated as an equivalent undergraduate program of study if the student in the program of study:

(a) Has not received eight (8) academic terms of a KEES award;

(b) Is classified by an institution as a graduate or professional student and is enrolled in one (1) of the following academic programs:

1. Pharm. D;
2. The optometry or veterinary medicine programs at an institution which is a part of the Kentucky Contract Spaces Program; or
3. A program contained on the Equivalent Undergraduate Programs List; and

(c) Has not completed a baccalaureate degree.

Section 6. SAT Conversion Table. (1) Pursuant to KRS 164.7874(3), the following SAT to ACT Conversion Table shall be used to convert scores for SAT exams taken prior to the 2011-2012 academic year:

Table C-2 Concordance Between SAT I Recentered V+M Score and ACT Composite Score									
SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite	SAT I V+M	ACT Composite
1600	35-36	1370	31	1140	25	910	19	680	14
1590	35	1360	31	1130	25	900	19	670	14
1580	35	1350	30	1120	24	890	18	660	14
1570	35	1340	30	1110	24	880	18	650	13
1560	35	1330	30	1100	24	870	18	640	13
1550	34	1320	30	1090	24	860	18	630	13
1540	34	1310	29	1080	23	850	17	620	13
1530	34	1300	29	1070	23	840	17	610	13
1520	34	1290	29	1060	23	830	17	600	13
1510	34	1280	29	1050	22	820	17	590	13
1500	33	1270	28	1040	22	810	17	580	12
1490	33	1260	28	1030	22	800	16	570	12
1480	33	1250	28	1020	22	790	16	560	12
1470	33	1240	28	1010	21	780	16	550	12
1460	33	1230	27	1000	21	770	16	540	12
1450	32	1220	27	990	21	760	16	530	12
1440	32	1210	27	980	21	750	15	520	12
1430	32	1200	26	970	20	740	15	510	11
1420	32	1190	26	960	20	730	15	500	11
1410	32	1180	26	950	20	720	15		

VOLUME 41, NUMBER 10 – APRIL 1, 2015

1400	31	1170	26	940	20	710	15		
1390	31	1160	25	930	19	700	14		
1380	31	1150	25	920	19	690	14		

This table can be used to relate SAT I V+M scores to ACT Composite scores. The estimates are based on the test scores of 103,525 students from fourteen (14) universities and two (2) states who took both the ACT and the SAT I between October 1994 and December 1996. Because the ACT and the SAT I have different content, students' actual scores on the ACT could differ significantly from the concordance estimates in the table. Source: ACT, Inc. Questions about the concordance study may be directed to ACT's Research Division (319/337-1471). January 1998

(2) Pursuant to KRS 164.7874(3), the SAT to ACT Conversion Table included in this subsection shall be used to convert scores for SAT exams taken during or after the 2011-2012 academic year. Only the scores from the critical reasoning and mathematics sections of the SAT within a single exam administration shall be considered for KEES supplemental awards.

SAT I V+M	ACT Composite	SAT CR+M	ACT Composite						
1600	36	1370	31	1140	25	910	19	680	14
1590	35	1360	31	1130	25	900	19	670	14
1580	35	1350	30	1120	24	890	18	660	13
1570	35	1340	30	1110	24	880	18	650	13
1560	35	1330	30	1100	24	870	18	640	13
1550	35	1320	29	1090	24	860	18	630	13
1540	35	1310	29	1080	23	850	17	620	13
1530	34	1300	29	1070	23	840	17	610	12
1520	34	1290	29	1060	23	830	17	600	12
1510	34	1280	28	1050	23	820	17	590	12
1500	34	1270	28	1040	22	810	16	580	12
1490	34	1260	28	1030	22	800	16	570	12
1480	33	1250	28	1020	22	790	16	560	12
1470	33	1240	27	1010	21	780	16	550	11
1460	33	1230	27	1000	21	770	16	540	11
1450	33	1220	27	990	21	760	15	530	11
1440	33	1210	27	980	21	750	15	520	11
1430	32	1200	26	970	20	740	15	510	11
1420	32	1190	26	960	20	730	15		
1410	32	1180	26	950	20	720	15		
1400	32	1170	26	940	20	710	14		
1390	31	1160	25	930	19	700	14		
1380	31	1150	25	920	19	690	14		

This table can be used to relate SAT CR+M scores to ACT Composite scores. The estimates are based on the test scores of 300,437 students who took both the ACT and the SAT CR+M between September 2004 and June 2006. Because the ACT and the SAT CR+M have different content, students' actual scores on the ACT could differ significantly from the concordance estimates in the table. Source: ACT, Inc. Questions about the concordance study may be directed to ACT's Research Division (319/337-1471). June, 2008

Section 7. Criteria for Supplemental Award to Noncertified, Nonpublic High School Students and to GED Students. (1) A Kentucky resident who is a citizen, national, or permanent resident of the United States and who graduates from a nonpublic Kentucky high school not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

- (a) The student is not a convicted felon;
- (b) The date of the student's graduation is May 1999 or thereafter;
- (c) The student takes the ACT or SAT and has at least a minimum score as established by KRS 164.7879(3); and
- (d) The student enrolls in a participating institution within five (5) years after graduation from high school.

(2) A Kentucky resident who is a citizen, national, or permanent resident of the United States and who has not graduated from either a certified Kentucky high school or a nonpublic Kentucky high school that is not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

- (a) The student is not a convicted felon;
- (b) The student's 18th birthday occurs on or after January 1,

1999;

(c) The student takes and receives a GED diploma in Kentucky within five (5) years of attaining eighteen (18) years of age;

(d) The student takes the ACT or SAT and achieves a minimum score for eligibility as established by KRS 164.7879(3); and

(e) The student enrolls in a participating institution after July 1, 1999, and within five (5) years of receiving the GED diploma.

(3) A student who graduates from or attends an accredited out-of-state high school or Department of Defense school shall qualify for a supplemental award if:

(a) The parents meet the provisions of KRS 164.7879(2)(c)1a and b;

(b) The student takes the ACT or SAT and achieves a minimum score for eligibility as established by KRS 164.7879(3); and

(c) The student enrolls in a participating institution within five (5) years of graduating from or attending the accredited out-of-state high school or Department of Defense school.

(4) A student requesting a supplemental award under this section shall notify the participating institution where the student has or intends to enroll.

(5)(a) Residency shall be determined by a participating institution in accordance with 13 KAR 2:045.

(b) A participating institution shall determine a student's eligibility for a supplemental award under this section and shall notify the Authority of the student's eligibility.

Section 8. Supplemental Award. An eligible high school student who receives a supplemental award as a result of taking and receiving a GED within five (5) years of ~~attaining~~[obtaining] eighteen (18) years of age shall have a maximum of five (5) years eligibility beyond the date the GED is received.

Section 9. Supplemental Award for Achievement on Examinations. (1) Pursuant to KRS 164.7879(3)(c), a supplemental award shall be provided for achievement on Advanced Placement (AP) or International Baccalaureate (IB) examinations to an eligible high school student whose family was eligible for free and reduced price lunch during any year of high school.

(2)(a) An eligible high school shall report the status of each student as eligible or ineligible for free and reduced price lunch to the Authority on an annual basis.

(b) In determining a high school student's free and reduced price lunch eligibility, the high school shall utilize the income eligibility guidelines published each year by the United States Department of Agriculture, Food and Nutrition Service.

Section 10. Administrative Responsibilities and Expenses of Program. (1) The Authority annually shall determine the level of funding for expenses associated with the program and shall allocate funds from the "Wallace G. Wilkinson Kentucky Educational Excellence Scholarship Trust Fund" described in KRS 164.7877(1) and (3).

(2) The Authority annually shall adopt a budget proposal indicating the amount of funds available and a detailed listing of the expenditures necessary to operate the program.

(3) The Authority shall develop an allotment schedule for the release of the administrative funds.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Home of Record Certification", June 2005;
- (b) "Curriculum Certification", June 2005;
- (c) "Data Submission", June 2005; and
- (d) "Equivalent Undergraduate Programs List", June 2005.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Authority, 100 Airport Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

LORI PAYNE, Chair

APPROVED BY AGENCY: February 26, 2015

FILED WITH LRC: March 11, 2015 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2015. 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: Ms. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rebecca Gilpatrick

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the procedures for administering the Kentucky Educational Excellence Scholarship (KEES) Program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements relating to the Kentucky Educational Excellence Scholarship (KEES) Program for the Kentucky Higher Education Assistance Authority (KHEAA).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.7877(3) requires KHEAA to administer the funds appropriated to the trust fund for the program; KRS 164.7874(14) requires KHEAA to determine the KEES curriculum's courses of study; KRS 164.7879(3)(c) requires KHEAA to determine the eligibility of a noncertified, nonpublic high school graduate and for a GED recipient for a supplemental award; KRS 164.7874(3) requires KHEAA to establish a table to convert an SAT score to an ACT standard; KRS 164.7881(6) requires KHEAA to establish a five (5) year postsecondary education program standard; KRS 164.7881(4)(a) requires KHEAA to establish overall award levels for the program; KRS 164.7879(2)(c) requires KHEAA to determine eligibility for children of parents who are in the military and who claim Kentucky as their home of record; and KRS 164.7535 and 164.7881 (4)(c) require KHEAA to identify equivalent undergraduate programs of study. This administrative regulation establishes these requirements related to the KEES program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This

administrative regulation assists in the effective administration of the statutes by establishing program eligibility criteria for administration of the KEES program by KHEAA.

(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 existing regulation by removing "Cumulative GPA" as a defined term in this regulation. It will instead be inserted into 11 KAR 15:010, the regulation that establishes definitions for the KEES program overall.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is necessary in order to more appropriately place the definition of this term in the KEES definitional regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes permit KHEAA to develop definitions for administration of the KEES program. This amendment conforms to the authorizing statutes by removing this defined term from this regulation and placing it in a more appropriate regulation.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist in the effective administration of the statutes by removing a defined term from this regulation to enable it to be placed in a more appropriate regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: No individuals or groups will be affected by this change. The term "Cumulative GPA", as defined, will continue to be applicable to the KEES program.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: See (3) above.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

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

The KEES program is funded through net lottery revenues transferred in accordance with KRS 154A.130.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees nor increase any existing fees.

(9) TIERING: Is tiering applied? Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

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 will impact the Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.7874, 164.7877(3), 164.7879(1),(2),(3), 164.7881(4)(a), (c), (6).

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 administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

a. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate any revenue for the first year.

b. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate any revenue for subsequent years.

c. How much will it cost to administer this program for the first year? No costs are associated with this regulation for the first year.

d. How much will it cost to administer this program for subsequent years? No costs are associated with this regulation 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:

COUNCIL ON POSTSECONDARY EDUCATION (Amendment)

13 KAR 2:045. Determination of residency status for admission and tuition assessment purposes.

RELATES TO: KRS Chapter 13B, 164.020, 164.030, 164A.330(6)

STATUTORY AUTHORITY: KRS 164.020(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.020(8) requires the Council on Postsecondary Education to

determine tuition and approve the minimum qualifications for admission to a state postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents. This administrative regulation establishes the procedure and guidelines for determining the residency status of a student who is seeking admission to, or who is enrolled at, a state-supported postsecondary education institution.

Section 1. Definitions. (1) "Academic term" means a division of the school year during which a course of studies is offered, and includes a semester, quarter, or single consolidated summer term as defined by the institution.

(2) "Continuous enrollment" means enrollment in a state-supported postsecondary education institution at the same degree level for consecutive terms, excluding summer term, since the beginning of the period for which continuous enrollment is claimed unless a sequence of continuous enrollment is broken due to extenuating circumstances beyond the student's control, including serious personal illness or injury, or illness or death of a parent.

(3) "Degree level" means enrollment in a course or program that could result in the award of a:

(a) Certificate, diploma, or other program award at an institution;

(b) Baccalaureate degree or lower, including enrollment in a course by a nondegree-seeking postbaccalaureate student;

(c) Graduate degree or graduate certification other than a first-professional degree in law, medicine, dentistry, or "Pharm. D"; or

(d) Professional degree in law, medicine, dentistry, or "Pharm. D".

(4) "Dependent person" means a person who cannot demonstrate financial independence from parents or persons other than a spouse and who does not meet the criteria for independence established in Section 5 of this administrative regulation.

(5) "Determination of residency status" means the decision of a postsecondary education institution that may include a formal hearing that results in the classification of a person as a Kentucky resident or as a nonresident for admission and tuition assessment purposes.

(6) "Domicile" means a person's true, fixed, and permanent home and is the place where the person intends to remain indefinitely, and to which the person expects to return if absent without intending to establish a new domicile elsewhere.

(7) "Full-time employment" means continuous employment for at least forty-eight (48) weeks at an average of at least thirty (30) hours per week.

(8) "Independent person" means a person who demonstrates financial independence from parents or persons other than a spouse and who meets the criteria for independence established in Section 5 of this administrative regulation.

(9) "Institution" means an entity defined by KRS 164.001(12) if the type of institution is not expressly stated and includes the Kentucky Virtual University, the Council on Postsecondary Education, and the Kentucky Higher Education Assistance Authority.

(10) "Kentucky resident" means a person determined by an institution for tuition purpose to be domiciled in and a resident of Kentucky as determined by this administrative regulation.

(11) "Nonresident" means a person who:

(a) Is domiciled outside[by] Kentucky;

(b) Currently maintains legal residence outside Kentucky; or

(c) Is not a Kentucky resident as determined by this administrative regulation.

(12) "Parent" means one (1) of the following:

(a) A person's father or mother; or

(b) A court-appointed legal guardian if:

1. The guardianship is recognized by an appropriate court within the United States;

2. There was a relinquishment of the rights of the parents; and

3. The guardianship was not established primarily to confer Kentucky residency on the person.

(13) "Preponderance of the evidence" means the greater

weight of evidence or evidence that is more credible and convincing to the mind.

(14) "Residence" means the place of abode of a person and the place where the person is physically present most of the time for a noneducational purpose in accordance with Section 3 of this administrative regulation.

(15) "Student financial aid" means all forms of payments to a student if one (1) condition of receiving the payment is the enrollment of the student at an institution, and includes student employment by the institution or a graduate assistantship.

(16) "Sustenance" means living expenses including room, board, maintenance, transportation, and educational expenses including tuition, fees, books, and supplies.

Section 2. Scope. (1) State-supported postsecondary education institutions were established and are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents of Kentucky. The substantial commitment of public resources to postsecondary education is predicated on the proposition that the state benefits significantly from the existence of an educated citizenry. As a matter of policy, access to postsecondary education shall be provided so far as feasible at reasonable cost to a qualified individual who is domiciled in Kentucky and who is a resident of Kentucky.

(2) The Council on Postsecondary Education may require a student who is neither domiciled in nor a resident of Kentucky to meet higher admission standards and to pay a higher level of tuition than resident students.

(3) This administrative regulation shall apply to all student residency determinations regardless of circumstances, including residency determinations made by the state-supported institutions for prospective and currently-enrolled students; the Southern Regional Education Board for contract spaces; reciprocity agreements, if appropriate; the Kentucky Virtual University; academic common market programs; the Kentucky Educational Excellence Scholarship Program; and other state student financial aid programs, as appropriate.

Section 3. Determination of Residency Status; General Rules. (1) A determination of residency shall include:

(a) An initial determination of residency status by an institution during the admission process or upon enrollment in an institution for a specific academic term or for admission into a specific academic program;

(b) A reconsideration of a determination of residency status by an institution based upon a changed circumstance; or

(c) A formal hearing conducted by an institution upon request of a student after other administrative procedures have been completed.

(2) An initial determination of residency status shall be based upon:

(a) The facts in existence when the credentials established by an institution for admission for a specific academic term have been received and during the period of review by the institution;

(b) Information derived from admissions materials;

(c) If applicable, other materials required by an institution and consistent with this administrative regulation; and

(d) Other information available to the institution from any source.

(3) An individual seeking a determination of Kentucky residency status shall demonstrate that status by a preponderance of the evidence.

(4) A determination of residency status shall be based upon verifiable circumstances or actions.

(5) Evidence and information cited as the basis for Kentucky domicile and residency shall accompany the application for a determination of residency status.

(6) A student classified as a nonresident shall retain that status until the student is officially reclassified by an institution.

(7) A student may apply for a review of a determination of residency status once for each academic term.

(8) If an institution has information that a student's residency status may be incorrect, the institution shall review and determine

the student's correct residency status.

(9) If the Council on Postsecondary Education has information that an institution's determination of residency status for a student may be incorrect, it may require the institution to review the circumstances and report the results of that review.

(10) An institution shall impose a penalty or sanction against a student who gives incorrect or misleading information to an institutional official, including payment of nonresident tuition for each academic term for which resident tuition was assessed based on an improper determination of residency status. The penalty or sanction may also include:

(a) Student discipline by the institution through a policy written and disseminated to students; or

(b) Criminal prosecution.

Section 4. Presumptions Regarding Residency Status. (1) In making a determination of residency status, it shall be presumed that a person is a nonresident if:

(a) A person is, or seeks to be, an undergraduate student and admissions records show the student to be a graduate of an out-of-state high school within five (5) years prior to a request for a determination of residency status;

(b) A person's admissions records indicate the student's residence to be outside of Kentucky at the time of application for admission;

(c) A person moves to Kentucky primarily for the purpose of enrollment in an institution;

(d) A person moves to Kentucky and within twelve (12) months enrolls at an institution more than half time;

(e) A person has a continuous absence of one (1) year from Kentucky; or

(f) A person attended an out-of-state higher education institution during the past academic year and paid in-state tuition at that institution.

(2) A presumption arising from subsection (1) of this section shall only be overcome by preponderance of evidence sufficient to demonstrate that a person is domiciled in and is a resident of Kentucky.

Section 5. Determination of Whether a Student is Dependent or Independent. (1) In a determination of residency status, an institution shall first determine whether a student is dependent or independent. This provision is predicated on the assumption that a dependent person lacks the financial ability to live independently of the person upon whom the student is dependent and therefore lacks the ability to form the requisite intent to establish domicile. A determination that a student is independent shall be one (1) step in the overall determination of whether a student is or is not a resident of Kentucky.

(2) In determining the dependent or independent status of a person, the following information shall be considered as well as other relevant information available at the time the determination is made:

(a)1. Whether the person has been claimed as a dependent on the federal or state tax returns of a parent or other person for the year preceding the date of application for a determination of residency status; or

2. Whether the person is no longer claimed by a parent or other person as a dependent or as an exemption for federal and state tax purposes; and

(b) Whether the person has financial earnings and resources independent of a person other than an independent spouse necessary to provide for the person's own sustenance.

(3) An individual who enrolls at an institution immediately following graduation from high school and remains enrolled shall be presumed to be a dependent person unless the contrary is evident from the information submitted.

(4) Domicile may be inferred from the student's permanent address, parent's mailing address, or location of high school of graduation.

(5) Marriage to an independent person domiciled in and who is a resident of Kentucky shall be a factor considered by an institution in determining whether a student is dependent or independent.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(6) Financial assistance from or a loan made by a parent or family member other than an independent spouse, if used for sustenance of the student:

- (a) Shall not be considered in establishing a student as independent; and
- (b) Shall be a factor in establishing that a student is dependent.

Section 6. Effect of a Determination of Dependent Status on a Determination of Residency Status. (1) The effect of a determination that a person is dependent shall be:

- (a) The domicile and residency of a dependent person shall be the same as either parent. The domicile and residency of the parent shall be determined in the same manner as the domicile and residency of an independent person; and
- (b) The domicile and residency of a dependent person whose parents are divorced, separated, or otherwise living apart shall be Kentucky if either parent is domiciled in and is a resident of Kentucky regardless of which parent has legal custody or is entitled to claim that person as a dependent pursuant to federal or Kentucky income tax provisions.

(2) If the parent or parents of a dependent person are Kentucky residents and are domiciled in Kentucky but subsequently move from the state:

- (a) The dependent person shall be considered a resident of Kentucky while in continuous enrollment at the degree level in which currently enrolled; and
- (b) The dependent person's residency status shall be reassessed if continuous enrollment is broken or the current degree level is completed.

Section 7. Member or Former Member of Armed Forces of the United States, Spouse and Dependents; Effect on a Determination of Residency Status. (1) A member, spouse, or dependent of a member whose domicile and residency was Kentucky at the time of induction into the Armed Forces of the United States, and who maintains Kentucky as home of record and permanent address, shall be entitled to Kentucky residency status:

- (a) During the member's time of active service; or
 - (b) If the member returns to this state within six (6) months of the date of the member's discharge from active duty.
- (2)(a) A member of the armed services on active duty for more than thirty (30) days and who has a permanent duty station in Kentucky shall be classified as a Kentucky resident and shall be entitled to in-state tuition as shall the spouse or a dependent child of the member.
- (b) A member, spouse, or dependent of a member shall not lose Kentucky residency status if the member is transferred on military orders while the member, spouse, or dependent requesting the status is in continuous enrollment at the degree level in which currently enrolled.

(3)(a) Membership in the National Guard or civilian employment at a military base alone shall not qualify a person for Kentucky residency status under the provisions of subsections (1) and (2) of this section. If a member of the Kentucky National Guard is on active duty status for a period of not less than thirty (30) days, the member shall be considered a Kentucky resident, as shall the spouse of a dependent child of the member.

(4) A person eligible for benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. 3301 et seq.) or any other federal law authorizing educational benefits for veterans shall be entitled to Kentucky resident status.

(5) A person's residency status established pursuant to this section shall be reassessed if the qualifying condition is terminated.

Section 8. Status of Nonresident Aliens; Visas and Immigration. (1)(a) A person holding a permanent residency visa or classified as a political refugee shall establish domicile and residency in the same manner as another person.

(b) Time spent in Kentucky and progress made in fulfilling the conditions of domicile and residency prior to obtaining permanent residency status shall be considered in establishing Kentucky domicile and residency.

(2) A person holding a nonimmigrant visa with designation A, E, G, H-1, H-4 if accompanying a person with an H-1 visa, I, K, L, N, R, shall establish domicile and residency the same as another person.

(3)(a) An independent person holding a nonimmigrant visa with designation B, C, D, F, H-2, H-3, H-4 if accompanying a person with an H-2 or H-3 visa, J, M, O, P, Q, S, TD, or TN shall not be classified as a Kentucky resident, because that person does not have the capacity to remain in Kentucky indefinitely and therefore cannot form the requisite intent necessary to establish domicile as defined in Section 1(6) of this administrative regulation.

(b) A dependent person holding a visa as described in paragraph (a) of this subsection, but who is a dependent of a parent holding a visa as described in subsection (2) of this section, shall be considered as holding the visa of the parent.

(c) A dependent person holding a visa described in subsection (2) of this section or paragraph (a) of this subsection, if a parent is a citizen of the United States and is a resident of and domiciled in Kentucky, shall be a resident of Kentucky for the purposes of this administrative regulation.

(4) A person shall be a Kentucky resident for the purpose of this administrative regulation if the person graduated from a Kentucky high school and:

- (a) Is an undocumented alien;
- (b) Holds a visa listed in subsections (2) or (3)(a) of this section; or
- (c) Is a dependent of a person who holds a visa listed in subsections (2) or (3)(a) of this section.

(5)(a) Except as provided in paragraph (b) of this subsection, a person who has petitioned the federal government to reclassify visa status shall continue to be ineligible until the petition has been decided by the federal government.

(b) A person who has petitioned the federal government to reclassify his or her visa status based on marriage to a Kentucky resident and who can demonstrate that the petition has been filed and acknowledged by the federal government, may establish Kentucky domicile and residency at that time.

Section 9. Beneficiaries of a Kentucky Educational Savings Plan Trust. A beneficiary of a Kentucky Educational Savings Plan Trust shall be granted residency status if the beneficiary meets the requirements of KRS 164A.330(6).

Section 10. Criteria Used in a Determination of Residency Status. (1)(a) A determination of Kentucky domicile and residency shall be based upon verifiable circumstances or actions.

(b) A single fact shall not be paramount, and each situation shall be evaluated to identify those facts essential to the determination of domicile and residency.

(c) A person shall not be determined to be a Kentucky resident by the performance of an act that is incidental to fulfilling an educational purpose or by an act performed as a matter of convenience.

(d) Mere physical presence in Kentucky, including living with a relative or friend, shall not be sufficient evidence of domicile and residency.

(e) A student or prospective student shall respond to all requests for information regarding domicile or residency requested by an institution.

(2) The following facts, although not conclusive, shall have probative value in their entirety and shall be individually weighted, appropriate to the facts and circumstances in each determination of residency:

(a) Acceptance of an offer of full-time employment or transfer to an employer in Kentucky or contiguous area while maintaining residence and domicile in Kentucky;

(b) Continuous physical presence in Kentucky while in a nonstudent status for the twelve (12) months immediately preceding the start of the academic term for which a classification of Kentucky residency is sought;

(c)1. Filing a Kentucky resident income tax return for the calendar year preceding the date of application for a change in residency status; or

VOLUME 41, NUMBER 10 – APRIL 1, 2015

2. Payment of Kentucky withholding taxes while employed during the calendar year for which a change in classification is sought;

(d) Full-time employment of at least one (1) year while living in Kentucky;

(e) Attendance as a full-time, nonresident student at an out-of-state institution based on a determination by that school that the person is a resident of Kentucky;

(f) Abandonment of a former domicile or residence and establishing domicile and residency in Kentucky with application to or attendance at an institution following and incidental to the change in domicile and residency;

(g) Obtaining licensing or certification for a professional and occupational purpose in Kentucky;

(h) Payment of real property taxes in Kentucky;

(i) Ownership of real property in Kentucky, if the property was used by the student as a residence preceding the date of application for a determination of residency status;

(j) Marriage of an independent student to a person who was domiciled in and a resident of Kentucky prior to the marriage; and

(k) The extent to which a student is dependent on student financial aid in order to provide basic sustenance.

(3) Except as provided in subsection (4) of this section, the following facts, because of the ease and convenience in completing them, shall have limited probative value in a determination that a person is domiciled in and is a resident of Kentucky:

(a) Kentucky automobile registration;

(b) Kentucky driver's license;

(c) Registration as a Kentucky voter;

(d) Long-term lease of at least twelve (12) consecutive months of noncollegiate housing; and

(e) Continued presence in Kentucky during academic breaks.

(4) The absence of a fact contained in subsection (3) of this section shall have significant probative value in determining that a student is not domiciled in or is not a resident of Kentucky.

Section 11. Effect of a Change in Circumstances on Residency Status. (1) If a person becomes independent or if the residency status of a parent or parents of a dependent person changes, an institution shall reassess residency either upon a request by the student or a review initiated by the institution.

(2) Upon transfer to a Kentucky institution, a student's residency status shall be assessed by the receiving institution.

(3) A reconsideration of a determination of residency status for a dependent person shall be subject to the provisions for continuous enrollment, if applicable.

Section 12. Student Responsibilities. (1) A student shall report under the proper residency classification, which includes the following actions:

(a) Raising a question concerning residency classification;

(b) Making application for change of residency classification with the designated office or person at the institution; and

(c) Notifying the designated office or person at the institution immediately upon a change in residency.

(2) If a student fails to notify an institutional official of a change in residency, an institutional official may investigate and evaluate the student's residency status.

(3)(a) If a student fails to provide, by the date specified by the institution, information required by an institution in a determination of residency status, the student shall be notified by the institution that the review has been canceled and that a determination has been made.

(b) Notification shall be made by registered mail, return receipt requested.

(c) Notification shall be made within ten (10) calendar days after the deadline for receipt of materials has passed.

(4)(a) The formal hearing conducted by an institution and the final recommended order shall be a final administrative action with no appeal to the Council on Postsecondary Education.

(b) A formal administrative hearing conducted by the Council on Postsecondary Education for residency determinations related

to eligibility for the Academic Common Market and Regional Contract Programs shall be conducted pursuant to the provisions of KRS Chapter 13B and 13 KAR 2:070. The recommended order issued by the President of the Council shall be a final administrative action.

(5) A student shall not be entitled to appeal a determination of residency status if the determination made by an institution is because a student has failed to meet published deadlines for the submission of information as set forth in subsection (3) of this section. A student may request a review of a determination of residency status in a subsequent academic term.

Section 13. Institutional Responsibilities. Each institution shall:

(1) Provide for an administrative appeals process that includes a residency appeals officer to consider student appeals of an initial residency determination and which shall include a provision of fourteen (14) days for the student to appeal the residency appeals officer's determination;

(2) Establish a residency review committee to consider appeals of residency determinations by the residency appeals officer. The residency review committee shall make a determination of student residency status and notify the student in writing within forty-five (45) days after receipt of the student appeal;

(3) Establish a formal hearing process as described in Section 14 of this administrative regulation; and

(4) Establish written policies and procedures for administering the responsibilities established in subsections (1), (2), and (3) of this section and that are:

(a) Approved by the institution's governing board;

(b) Made available to all students; and

(c) Filed with the council.

Section 14. Formal Institutional Hearing. (1) A student who appeals a determination of residency by a residency review committee shall be granted a formal hearing by an institution if the request is made by a student in writing within fourteen (14) calendar days after notification of a determination by a residency review committee.

(2) If a request for a formal hearing is received, an institution shall appoint a hearing officer to conduct a formal hearing. The hearing officer shall:

(a) Be a person not involved in determinations of residency at an institution except for formal hearings; and

(b) Not be an employee in the same organizational unit as the residency appeals officer.

(3) An institution shall have written procedures for the conduct of a formal hearing that have been adopted by the board of trustees or regents, as appropriate, and that provide for:

(a) A hearing officer to make a recommendation on a residency appeal;

(b) Guarantees of due process to a student that include:

1. The right of a student to be represented by legal counsel; and

2. The right of a student to present information and to present testimony and information in support of a claim of Kentucky residency; and

(c) A recommendation to be issued by the hearing officer.

(4) An institution's formal hearing procedures shall be filed with the Council on Postsecondary Education and shall be available to a student requesting a formal hearing.

Section 15. Cost of Formal Hearings. (1) An institution shall pay the cost for all residency determinations including the cost of a formal hearing.

(2) A student shall pay for the cost of all legal representation in support of the student's claim of residency.

GLENN DENTON, Chair

TRAVIS POWELL, General Counsel

APPROVED BY AGENCY: March 2, 2015

FILED WITH LRC: March 2, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on

VOLUME 41, NUMBER 10 – APRIL 1, 2015

April 22, 2015 at 10:00 a.m. at the Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601 in Conference Room A. 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 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 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 pm, April 30, 2015. 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: Travis Powell, General Counsel and Assistant Vice President of Operations, 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Travis Powell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets the criteria for determining whether a student is, or is not, a Kentucky resident for the purpose of admissions to a state-supported institution, or for the purpose of assessing tuition.

(b) The necessity of this administrative regulation: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents. KRS 164.020(29) empowers the Council to promulgate administrative regulations to carry out this and other duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the procedure and guidelines for determining the residency status of a student who is seeking admission to, or who is enrolled at, a state-supported postsecondary education 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: This amendment will allow a person eligible for benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. Section 3301 et seq.) or any other federal law authorizing educational benefits for veterans to be entitled to Kentucky resident status for purposes of admission and tuition at public postsecondary institutions in Kentucky.

(b) The necessity of the amendment to this administrative regulation: In August 2014, President Obama signed into law the Veterans Access, Choice and Accountability Act of 2014. Section 702 of the Act requires public institutions to charge in-state tuition to veterans serving at least ninety (90) days who enroll within three (3) years of discharge from active duty, as well as certain individuals who receive federal education benefits through those veterans. If institutions are not able to comply with this requirement by July 1, 2015, the Veteran's Administration (VA) will disapprove them for all Montgomery and Post-9/11 GI Bill educational assistance. As currently constituted, 13 KAR 2:045 would require covered individuals who do not otherwise meet the requirements for residency to be charged the out-of-state tuition rate. Therefore,

the Council must amend 13 KAR 2:045 accordingly to ensure that students at Kentucky's public postsecondary institutions can continue to receive Montgomery and Post-9/11 GI Bill educational assistance.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms with the requirements of KRS 164.020(8) by further defining residency for purposes of tuition and admission. It conforms with Section 702 of the Veteran's Access, Choice and Accountability Act of 2014 by ensuring that the required class of individuals will be charged the in-state rate of tuition.

(d) How the amendment will assist in the effective administration of the statutes: The amendment ensures that public institutions are in compliance with federal law so their eligible students can continue receiving Post 9/11 and Montgomery GI Bill benefits.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects all public colleges and universities in Kentucky as well as all students attending those institutions.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, 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: Public institutions will need to verify that an applicant is eligible for the in-state tuition rate by obtaining his or her certification of eligibility from the Veterans Benefits Administration. Eligible applicants will need to obtain that certification and provide it to institution.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Cost of compliance will vary depending on the number of students in attendance that would have otherwise been required to pay the out-of-state rate. However, the potential loss of all Post 9/11 and Montgomery GI Bill funding would be much greater than what will be lost by charging the lower in-state rate to eligible individuals not already receiving the in-state rate.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): See 4(b) above.

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

(a) Initially: We estimate that there will be no additional cost in implementing the proposed changes to the regulation.

(b) On a continuing basis: We estimate that there will be no additional costs on a continuing basis to implement the proposed changes to the regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 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: No. Implementation of this amendment does not require an increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not applied. The requirements for determinations of residency in the regulation apply to all students applying to state postsecondary education institutions.

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? Public colleges and universities in Kentucky are impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative

VOLUME 41, NUMBER 10 – APRIL 1, 2015

regulation. KRS 164.020 and Pub.L. 113-146 Veterans Access, Choice and Accountability Act (Section 702).

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? 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? Determinations of residency are done as part of the larger admissions process at public institutions in Kentucky. As such, it is difficult to pull this aspect out of the admission process and determine its cost of administration. While staff time and other resources are used to make residency determinations, they dictate how much an institution can charge an individual for tuition and are therefore necessary in order to collect those funds.

(d) How much will it cost to administer this program for subsequent years? See 3(c).

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

Revenues (+/-):
Expenditures (+/-):
Other Explanation: N/A

**PERSONNEL CABINET
(Amendment)**

101 KAR 2:102. Classified leave general requirements.

RELATES TO: KRS 18A.030, 18A.110, 18A.195, 61.394, 344.030, 29 U.S.C. 201 – 219, 2601 – 2654

STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.155, 344.030, 29 U.S.C. 201 – 219, 2601 – 2654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(7)(g) requires the Secretary of Personnel, with the approval of the Governor, to promulgate administrative regulations that govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for classified employees.

Section 1. Annual Leave. (1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months & over	2 leave days per month; 24 per year

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired, except as provided in paragraph (f) of this subsection, shall receive credit for prior service, unless the employee had been dismissed as a result of misconduct or a violation of KRS 18A.140, 18A.145, or 18A.990.

(f) An employee, who has retired from a position covered by a state retirement system, is receiving retirement benefits, and

returns to state service, shall not receive credit for months of service prior to retirement.

(g) A part-time employee shall not be entitled to annual leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of hours or one-quarter (1/4) hours.

(b) Except as provided in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency permit.

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain[his] accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, the leave shall be calculated as established in the following table[provided in this paragraph]:

Months of Service	Maximum Amount	37.5 Week Equivalent	Hour	40 Hour Week Equivalent
0-59	30 workdays	225 hours		240 hours
60-119 months	37 workdays	277.50 hours		296 hours
120-179 months	45 workdays	337.50 hours		360 hours
180-239 months	52 workdays	390 hours		416 hours
240 months and over	60 workdays	450 hours		480 hours

(j) Leave in excess of the maximum amounts specified in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)1. If an employee is separated by proper resignation or retirement, the employee[he] shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which the employee[he] is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

- a. Not be paid to the employee or converted to sick leave; and
- b. Be removed from the balance.

(b) If an employee is laid off, the employee[he] shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or resigns one (1) day and is employed the next

VOLUME 41, NUMBER 10 – APRIL 1, 2015

workday, shall retain the[his] accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause related to misconduct or who has failed, without proper excuse, to give proper notice of resignation or retirement shall not be paid for accumulated annual leave.

(e) Upon the death of an employee, the employee's[his] estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(f) An employee may request in writing that[his] accumulated annual leave not be paid upon resignation, and that all or part of the amount of[his] accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. The employee[He] resigns, or is laid off[~~from his position~~], because of an approved plan of privatization of the services [he] performed; and

2. The successor employer has agreed to credit the employee[him] with an equal amount of annual leave.

Section 2. Sick Leave. (1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) The total service shall be verified before the leave is credited to the employee's record.

(h) A former employee who has been rehired, except as provided in paragraph (i) of this subsection, shall receive credit for prior service, unless the employee had been dismissed as a result of misconduct or a violation of KRS 18A.140, 18A.145, or 18A.990.

(i) A former employee who is appointed, reinstated, or reemployed, other than a former employee receiving benefits pursuant to a state retirement system, shall be credited with the unused sick leave balance[~~credited to him~~] upon separation.

(j) Sick leave may be accumulated with no maximum.

(2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;

2. Is disabled by illness or injury. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's[his] duties for the days or hours sick leave is requested. If requested by the appointing authority, the employee shall provide a certificate from an appropriate medical health professional certifying the employee's fitness to return to duty before the employee is permitted to return to work;

3. Is required to care for or transport a member of the employee's[his] immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member; or

4. Would jeopardize the health of the employee[himself] or others at the employee's[his] work station because of a contagious disease or demonstration of behavior that might endanger the

employee[himself] or others.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's[his] former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of hours or one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain[his] accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if[he-is] separated by proper resignation, layoff, or retirement.

(3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and

2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee[he] has requested to retain up to ten (10) days of accumulated sick leave.

(b) An appointing authority shall grant sick leave without pay to an employee who does not qualify for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for a member of the immediate family, or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days.

(4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's[his] duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's[his] ability to resume[his] duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee[he] is qualified and which resembles the[his] former position as closely as circumstances permit. The appointing authority shall notify the employee in writing of the following:

1. The effective date of the employee's return;
2. The position to which the employee is being returned; and
3. The employee's salary upon return to work.

(f) If reasonable accommodation is requested, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be deemed resigned if the employee[he]:

1. Has been on one (1) year continuous sick leave by personnel action;
2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of leave;
3. Is unable to return to the employee's[his] former position;
4. Has been given priority consideration by the appointing

VOLUME 41, NUMBER 10 – APRIL 1, 2015

authority for a vacant, budgeted position with the same agency, for which the employee[he] is qualified and is capable of performing its essential functions with or without reasonable accommodation; and

5. Has not been placed by the appointing authority in a vacant position.

(h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee who is deemed resigned pursuant to paragraph

(g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, the[an] employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.

(e) A medical certificate may be required, signed by a licensed practitioner and certifying to the employee's incapacity, examination, or treatment.

(f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

Section 3. Family and Medical Leave. (1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee in state service shall qualify for twelve (12) weeks of unpaid family leave if the employee has:

(a) Completed twelve (12) months of service; and

(b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.

(3) Family and medical leave shall be awarded on a calendar year basis.

(4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.

(5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.

(6) If the employee would qualify for family and medical leave, but has an annual, compensatory, or sick leave balance, upon the employee's request, the agency shall permit the employee to:

(a) Reserve ten (10) days of accumulated sick leave and be placed on FMLA leave; or

(b) Use accrued paid leave concurrently with FMLA leave.

Section 4. Court Leave. (1) An employee shall be entitled to court leave during the employee's[his] scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror or a witness, unless the employee or a member of the employee's[his] family is a party to the proceeding.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or witness during the employee's[his] normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's[his]

assigned duties.

Section 5. Compensatory Leave and Overtime. (1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty shall be granted compensatory leave and paid overtime subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8, the Kentucky Revised Statutes, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as provided by subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. The election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months. The election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next work week following receipt of the election.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the regular work schedule.

(e) Compensatory leave shall be accumulated or taken off in one-quarter (1/4) hour increments.

(f) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a non policy-making position; or

2. 240 hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment for fifty (50) hours at the regular rate of pay. If the appointing authority or the designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the regular hourly rate of pay, upon accumulating at the end of the pay period, 240 hours of compensatory leave. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.

(g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's[his]:

1. Regular hourly rate of pay; or
2. Average regular rate of pay for the final three (3) years of employment.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the ~~Kentucky~~ National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.

(4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 7. Voting and Election Leave. (1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, four (4) hours, for the purpose of voting.

(2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast. An employee shall be regularly scheduled to work on the day the vote is cast in order to receive the leave.

(3) An election officer shall receive additional leave if the total leave for election day does not exceed a regular workday.

(4) ~~(3)~~ The absence shall not be charged against leave.

(5) ~~(4)~~ An employee who is permitted or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

Section 8. Funeral and Bereavement Leave. (1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5)~~three (3)~~ days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.

(2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

Section 9. Special Leave of Absence. (1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months.

(b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.

(c) Leave shall be restricted to attendance at a college,

university, vocational, or business school for training in subjects that relate to the employee's work and will benefit the state.

(2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.

(3) If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of an allegation of employee misconduct.

(a) Leave shall not exceed sixty (60) working days.

(b) The employee shall be notified in writing by the appointing authority that the employee~~he~~ is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(c) If the investigation reveals no misconduct by the employee, records relating to the investigation shall be purged from agency and Personnel Cabinet files.

(d) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. This notification shall be made to the employee, whether the employee has remained in state service, or has voluntarily resigned after being placed on special leave for investigative purposes.

(4) An appointing authority may place an employee on administrative leave with pay upon the employee's receipt of an intent to dismiss letter as authorized by KRS 18A.095(2)(c).

Section 10. Absence Without Leave. (1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

(c) Constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be deemed resigned.

Section 11. Absences Due to Adverse Weather. (1) An employee, who is not designated for mandatory operations and chooses not to report to work or chooses to leave early in the event of adverse weather conditions such as tornado, flood, blizzard, or ice storm, shall have the time of the absence reported as:

(a) Charged to annual or compensatory leave;

(b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or

(c) Deferred in accordance with subsections (3) and (4) of this section.

(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.

(3) If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.

(4) An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.

(a) Time lost shall be made up within four (4) months of the occurrence of the absence. If it is not made up within four (4) months, annual or compensatory leave shall be deducted to cover the absence, or leave without pay shall be charged if no annual or compensatory leave is available.

(b) If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.

(5) If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shutdown of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(a) An employee who is required to evacuate or who would report to a location that has been shutdown shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 5 of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

Section 12. Blood Donation Leave. (1) An employee who, during regular working hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.

(2) Leave granted pursuant to this section shall be used at the time of the donation unless circumstances as specified by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.

(3) An employee shall request leave in advance to qualify for blood donation leave.

(4) An employee who is deferred from donating blood shall not:

(a) Be charged leave time for the time spent in the attempted donation; and

(b) Qualify for the remainder of the blood donation leave.

Section 13. Incorporation by Reference. (1) "Overtime Compensation Form", May 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

TIM LONGMEYER, Secretary

APPROVED BY AGENCY: March 13, 2015

FILED WITH LRC: March 13, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015 at 10:00 a.m. at 501 High Street, 3rd floor, 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 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 written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2015. 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: Dinah T. Bevington, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dinah T. Bevington

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation details the various types of leave available to KRS Chapter 18A classified employees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the various types of leave available to KRS Chapter 18A classified employees, and the requirements for these types of leave.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) requires the Secretary of Personnel, with the

approval of the Governor, to promulgate administrative regulations which govern annual leave, sick leave, special leaves of absence, and other conditions of leave. Further, KRS 18A.095(2)(c) authorizes an appointing authority to place a classified employee on paid administrative leave upon the issuance of a notice of an intent to dismiss to the employee.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the consistent application and treatment for classified employees on all employment leave matters.

(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 Military Leave section of this regulation is amended to remove the limitation of membership in Kentucky's National Guard for eligibility. This change makes the language consistent with KRS 61.394. An employee who is a member of any state's National Guard is eligible. The Voting and Election Leave section of this regulation is amended to state that an employee casting an absentee ballot shall record the leave on the day the employee's vote is cast. The Funeral and Bereavement Leave section is amended to extend an employee's funeral and bereavement leave entitlement from three (3) to five (5) days in the event of the loss of an immediate family member. A new subsection is created in the Special Leave of Absence section to include provisions relating to placement of an employee on administrative leave with pay upon the employee's receipt of an intent to dismiss letter as authorized by KRS 18A.095(2)(c). The Blood Donation Leave section is amended to clarify that an employee must donate whole blood to qualify for blood donation leave. Lastly, any and all gender-specific references have been removed from the regulation. Other small language adjustments have been made in order to increase the readability of the regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify an employee's voting leave and blood donation leave entitlement. Further, the amendment is needed to incorporate administrative leave with pay, as authorized by KRS 18A.095(2)(c), into the classified leave regulation. Lastly, the amendment is necessary to extend an employee's entitlement to funeral and bereavement leave from three (3) to five (5) days.

(c) How the amendment conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) requires the Secretary of Personnel, with the approval of the Governor, to promulgate administrative regulations which govern annual leave, sick leave, special leaves of absence, and other conditions of leave. Lastly, KRS 18A.095(2)(c) authorizes an appointing authority to place a classified employee on paid administrative leave upon the issuance of a notice of an intent to dismiss to the employee.

(d) How the amendment will assist in the effective administration of the statutes: This amendment corrects language in the Military Leave section, making it consistent with KRS 61.394. This amendment also clarifies an employee's voting leave and blood donation leave entitlement, assisting in the administration of these types of leave. Further, the amendment is needed to incorporate administrative leave with pay, as authorized by KRS 18A.095(2)(c), into the classified leave regulation. This ensures that all classified leave provisions are easily accessible through the administrative regulation. Lastly, the amendment is necessary to extend an employee's entitlement to funeral and bereavement leave from three (3) to five (5) days.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A classified employees and other individuals subject to the provisions of 101 KAR 2:102 will be subject to the provisions of this 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: No additional action is required.

(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 anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): KRS Chapter 18A classified employees' funeral and bereavement leave entitlement funeral and bereavement leave entitlement is extended from three (3) to five (5) days in the event of the loss of an immediate family member. However, this will not result in any additional costs since, pursuant to the regulation, employees must use their accrued leave balances in such an event. No additional leave is accrued due to this amendment.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional 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: This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted employees the same.

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? All state agencies with employees covered under KRS Chapter 18A.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), KRS 18A.110(7)(g), and KRS 18A.095(2)(c).

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? No revenue will be generated.

(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.

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments within this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PERSONNEL CABINET
(Amendment)

101 KAR 2:105. Sick leave sharing procedures.

RELATES TO: KRS 18A.110(1)(h), (7)(g), 18A.196, 18A.197
STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(1)(h), (7)(g), 18A.197(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.197(9) requires the Secretary of Personnel to promulgate administrative regulations to implement the sick leave sharing program. This administrative regulation establishes the sick leave sharing procedures.

Section 1. Definitions. (1) "Employee" is defined by KRS 18A.196(1).

(2) "Immediate family" means:

(a) The employee's spouse, mother, father, grandparent, son or daughter; or

(b) A person of similarly close relationship:

1. Who has resided with the employee for at least thirty (30) days prior to application; or

2. For whom the employee is legally responsible.

(3) "Medically certified illness, injury, impairment, or physical or mental condition" means a disabling medical condition which has rendered or will render the employee completely incapable of performing the essential duties of ~~the~~^{his or her} job due to:

(a) The employee's personal illness; or

(b) The medically certified necessity that the employee care for an eligible immediate family member.

Section 2. Eligibility to Donate or Receive Sick Leave. (1) An employee shall not qualify to donate or receive sick leave under the sick leave sharing program if the employee:

(a) Is not in active payroll status; or

(b) Has:

1. Resigned;

2. Retired; or

3. Been placed in unpaid leave status by a personnel action.

(2) To request donated sick leave due to a medically certified illness, injury, impairment, or physical or mental condition of the employee or an eligible immediate family member, an employee shall complete a Sick Leave Sharing Application.

(3) To donate sick leave, an employee shall complete a Sick Leave Sharing Donation Form.

Section 3. Procedures and Restrictions. (1) The ten (10) consecutive days of leave required for eligibility shall be leave with or without pay.

(2) Sick leave sharing shall not be authorized for mere convenience or employee preference.

(3) Sick leave shall not be donated to an employee regularly scheduled to work thirty seven and one-half (37.5) hours per week in an amount less than seven and one-half (7.5) hours. Sick leave shall not be donated to an employee regularly scheduled to work forty (40) hours per week in an amount less than eight (8) hours.

(4) If multiple donors donate sick leave to an eligible recipient, agencies shall transfer leave in chronological order of receipt of the donation forms, up to the maximum amount that has been certified to be needed by the recipient.

(5) The applicant for sick leave sharing shall be responsible for filing:

(a) The appropriate medical certificates certifying the medical necessity; and

(b) The Sick Leave Sharing Application.

(6) Donated sick leave shall not be utilized retroactively except to cover the period between the date the request was submitted to the employee's supervisor or agency representative and the date of approval by the appointing authority.

(7) The sick leave sharing recipient shall be responsible for monitoring the amount of sick leave donated and used.

(8) Except as provided by subsection (9) of this section, donated sick leave shall be used:

VOLUME 41, NUMBER 10 – APRIL 1, 2015

- (a) In the order in which it is donated; and
- (b) On consecutive days.
- (9) Leave that an employee accrues while receiving donated sick leave shall be used before donated sick leave.
- (10) When the recipient of donated leave returns to work, unused donated leave shall be restored to the donors in reverse order of donation, unless the recipient provides medical evidence that continued, periodic medical treatment relating to the original condition for which leave was donated is required.
- (11) If a sick leave donor resigns, retires, or is otherwise terminated from state employment before the process of transferring leave to the recipient has begun, the leave shall not be available for use by the recipient.
- (12) An appointing authority may require a sick leave recipient to provide an updated medical certificate attesting to the continued need for leave after thirty (30) working days of sick leave.
- (13) An employee receiving workers' compensation benefits shall be eligible to receive shared sick leave to maintain a regular level of pay.

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

- (a) "Sick Leave Sharing Application", March 2011; and
- (b) "Sick Leave Sharing Donation Form", March 2011.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Tim Longmeyer, Secretary

APPROVED BY AGENCY: March 13, 2015

FILED WITH LRC: March 13, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015 at 10:00 a.m. at 501 High Street, 3rd floor, 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 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 written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2015. 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: Dinah T. Bevington, Office of Legal Services, 501 High Street, 3 floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dinah T. Bevington

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation sets forth the administration and the requirements for the Sick Leave Sharing Program.

(b) The necessity of this administrative regulation: This regulation is necessary for the implementation and administration of the Sick Leave Sharing Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.030 allows the secretary to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A. This regulation is required pursuant to KRS 18A.110(1)(h) and (7)(g); KRS 18A.196; and KRS 18A.197.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation is necessary for the proper administration of the Sick Leave Sharing 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 amendment clarifies that sick leave shall not be donated to an employee regularly scheduled to work thirty seven and one-half (37.5) hours per week in an amount less than seven and one-half (7.5) hours. Further, sick leave shall not be donated to an employee regularly scheduled to work forty (40) hours per week in an amount less than eight (8) hours.

(2) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify the minimum amount of sick leave that one employee may donate to another employee.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment is consistent with authority provided in KRS 18A.110(1)(h) and (7)(g); KRS 18A.196; and KRS 18A.197.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies the minimum amount of sick leave that one employee may donate to another employee, assisting in the administration of the Sick Leave Sharing Program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All employees, capable of sharing and accepting sick leave donations pursuant to KRS Chapter 18A, are affected.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

(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 anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional 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: This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted employees the same.

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? All state agencies with employees covered under KRS Chapter 18A.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.110(1)(h) and (7)(g); KRS 18A.196; and KRS 18A.197.

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? No revenue will be generated.

(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.

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments within this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PERSONNEL CABINET (Amendment)

101 KAR 2:106. Annual leave sharing procedures.

RELATES TO: KRS 18A.025(3)(c)1d, 18A.203

STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110(1)(h), (2), 18A.203(9)

NECESSITY, FUNCTION, and CONFORMITY: KRS 18A.203(9) requires the Secretary of the Personnel Cabinet to promulgate procedural administrative regulations to implement the Annual Leave Sharing Program. This administrative regulation establishes the procedures for the Annual Leave Sharing Program established by KRS 18A.203.

Section 1. Definition. "Employee" is defined by KRS 18A.005(14).

Section 2. Eligibility to Donate or Receive Annual Leave. (1) An employee shall not qualify to donate or receive annual leave under the Annual Leave Sharing Program if the employee:

(a) Is not in active payroll status; or

(b) Has:

1. Resigned;

2. Retired; or

3. Been placed in unpaid leave status by a personnel action.

(2) To request donated annual leave, an employee shall complete an Annual Leave Sharing Application.

(3) To donate annual leave, an employee shall complete an Annual Leave Sharing Donation Form.

Section 3. Procedures and Restrictions. (1) The ten (10) consecutive days of leave required for eligibility by KRS 18A.203 shall be leave with or without pay.

(2) The total amount of shared annual leave that may be received or used by an eligible employee for the purposes specified by this administrative regulation shall be limited to 200 work hours per each qualifying event.

(3) Annual leave sharing shall not be authorized for mere convenience or employee preference.

(4) Annual leave shall not be donated to an employee regularly scheduled to work thirty-seven and one-half (37.5) hours per week in an amount less than seven and one-half (7.5) hours. Annual leave shall not be donated to an employee regularly scheduled to work forty (40) hours per week in an amount less than eight (8) hours.

(5) If multiple donors donate annual leave to an eligible recipient, agencies shall transfer leave in chronological order of

receipt of the donation forms, up to the maximum amount that has been certified to be needed by the recipient or 200 work hours, whichever is less.

(6) The applicant for annual leave sharing shall be responsible for filing the Annual Leave Sharing Application.

(7) Donated annual leave shall not be utilized retroactively except to cover the period between the date the request was submitted to the employee's supervisor or agency representative and the date of approval by the appointing authority.

(8) The annual leave sharing recipient shall be responsible for monitoring the amount of annual leave donated and used.

(9) Except as provided by subsection (10) of this section, donated annual leave shall be used:

(a) In the order in which it is donated; and

(b) On consecutive days.

(10) Any leave that an employee accrues while receiving donated annual leave shall be used before donated annual leave.

(11) When the recipient of donated leave returns to work, unused donated leave shall be restored to the donors in reverse order of donation, unless the recipient provides evidence that the original condition for which annual leave was donated will continue.

(12) If an annual leave donor resigns, retires, or is otherwise terminated from state employment before the process of transferring leave to the recipient has begun, the leave shall not be available for use by the recipient.

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

(a) "Annual Leave Sharing Application", October 2011; and

(b) Annual Leave Sharing Donation Form, October 2011.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Tim Longmeyer, Secretary

APPROVED BY AGENCY: March 13, 2015

FILED WITH LRC: March 13, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015 at 10:00 a.m. at 501 High Street, 3rd floor, 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 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 written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2015. 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: Dinah T. Bevington, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dinah T. Bevington

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the procedures for the Annual Leave Sharing Program.

(b) The necessity of this administrative regulation: This regulation is necessary for the proper administration of the Annual Leave Sharing Program, as required by KRS 18A.203.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.030 allows the secretary to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A. This regulation is required pursuant to KRS 18A.203, KRS 18A.025(3)(c), and

18A.110.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation is necessary for the proper administration of the Annual Leave Sharing 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 amendment clarifies that annual leave shall not be donated to an employee regularly scheduled to work thirty-seven and one-half (37.5) hours per week in an amount less than seven and one-half (7.5) hours. Further, sick leave shall not be donated to an employee regularly scheduled to work forty (40) hours per week in an amount less than eight (8) hours.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify the minimum amount of annual leave that one employee may donate to another employee.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment is consistent with authority provided in KRS 18A.110(1)(h) and (7)(g) and KRS 18A.203.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies the minimum amount of annual leave that one employee may donate to another employee, assisting in the administration of the Annual Leave Sharing Program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All employees, capable of sharing and accepting annual leave donations pursuant to KRS Chapter 18A, are affected.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

(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 anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional 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: This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted employees the same.

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? All state agencies with employees covered under KRS Chapter 18A.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.025(3)(c); KRS 18A.110(1)(h) and (7)(g); and KRS 18A.203.

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? No revenue will be generated.

(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.

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments within this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PERSONNEL CABINET (Amendment)

101 KAR 2:160. Kentucky Employee Assistance Program (KEAP).

RELATES TO: KRS 18A.030(2)(l), 18A.110(7)(l), 18A.155(1)(e)

STATUTORY AUTHORITY: KRS 18A.030(2)(l), 18A.110(7)(l), 18A.155(1)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(i), KRS 18A.110(7)(i), and 18A.155(1)(e) requires the Secretary of Personnel to promulgate administrative regulations which govern development, operation and enforcement of programs to improve the work effectiveness of employees in the state service including health, welfare, counseling and employee relations. This administrative regulation establishes requirements relating to the Kentucky Employee Assistance Program (KEAP).

Section 1. Establishment of Kentucky Employee Assistance Program. The Personnel Cabinet shall establish and administer[through the Division of Employee Benefits] the Kentucky Employee Assistance Program (KEAP) to coordinate employee assistance programs that exist in state agencies and to supplement them with additional services.

Section 2. Eligibility for Services. (1) An employee whose job performance is or may be adversely affected by personal problems may initiate a request for confidential personal or family services from the Kentucky Employee Assistance Program.

(2) An employee shall obtain a Kentucky Employee Assistance Program service without discrimination or reprisal.

(3) Participation of the employee in the Kentucky Employee Assistance Program shall not preclude an agency from taking disciplinary or a corrective action as needed in dealing with job behavior or job performance problem.

Section 3. Referrals. (1) A supervisor may extend to an employee an offer of assistance through the Kentucky Employee Assistance Program if the employee's job behavior or job performance is unacceptable or deteriorating.

(2) An employee's participation in services offered by the Kentucky Employee Assistance Program shall be voluntary and

confidential.

(3) An employee shall be allowed to contact KEAP for assessment or referral on state time with the prior approval of the supervisor.

(4) A supervisor may direct the employee to provide written confirmation of participation from KEAP, which shall provide confirmation upon the employee's written consent.

(5) An employee's participation in counseling or treatment upon referral by the Kentucky Employee Assistance Program shall take place on the employee's own time or while on leave.

(6) Employee involvement in the Kentucky Employee Assistance Program shall remain confidential as permitted by state and federal law, unless the employee authorizes release of specific information to a specifically identified person.

(7) Kentucky Employee Assistance Program services shall be free of charge to an employee and the employee's[his] family for information, assessment or referral. The Commonwealth shall not be liable for a counseling or treatment cost incurred except as provided through health benefits.

Tim Longmeyer, Secretary

APPROVED BY AGENCY: March 13, 2015

FILED WITH LRC: March 13, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015 at 10:00 a.m. at 501 High Street, 3rd floor, 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 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 written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2015. 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: Dinah T. Bevington, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dinah T. Bevington

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation sets forth the administration and the requirements for the Kentucky Employee Assistance Program.

(b) The necessity of this administrative regulation: This regulation is necessary for the implementation and administration of the Kentucky Employee Assistance Program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.030 allows the secretary to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A; KRS 18A.110(7)(i) and KRS 18A.155(1)(e).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 18A.030 requires the secretary to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 18. Specifically, KRS 18A.030(2)(i) authorizes regulations governing programs for employee safety, health, counseling, and welfare. KRS 18A.110(7)(i) and KRS 18A.155(1)(e) authorizes the secretary to promulgate regulations for the development and operation of programs to improve the work effectiveness of employees in the state service, safety, health, welfare, and counseling.

(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: Outdated language stating that the Kentucky Employee Assistance Program is administered by the Personnel Cabinet Division of Employee Benefits, which is now non-existent, is removed.

(b) The necessity of the amendment to this administrative regulation: This amendment is needed to remove outdated language stating that KEAP is administered by the Personnel Cabinet Division of Employee Benefits, which is now non-existent.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment is consistent with authority provided in KRS 18A.030(2)(i), KRS 18A.110(7)(i), and KRS 18A.155(1)(e).

(d) How the amendment will assist in the effective administration of the statutes: This amendment will reduce any confusion that may have resulted due to the outdated reference to the non-existent Personnel Cabinet Division of Employee Benefits.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A employees are affected.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

(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 anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional 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: This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted employees the same.

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? All state agencies with employees covered under KRS Chapter 18A.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2)(i), KRS 18A.110(7)(i), and KRS 18A.155(1)(e).

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? No revenue will be generated.

(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.

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments within this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**PERSONNEL CABINET
(Amendment)**

101 KAR 2:180. Employee performance evaluation system.

RELATES TO: KRS 18A.110

STATUTORY AUTHORITY: KRS 18A.110(1)(i), (7)(j)

NECESSITY, FUNCTION and CONFORMITY: KRS 18A.110(1)(i) and (7)(j) requires the Secretary of the Personnel Cabinet to promulgate comprehensive administrative regulations for classified service employees to establish a uniform system of annual employee evaluations for classified employees. This administrative regulation establishes the uniform employee performance evaluation system.

Section 1. General Provisions. (1) The annual performance period shall be one (1) calendar year beginning on January 1.

(2) Except as provided in subsection (4)(d) of this section, performance evaluations shall be completed no later than January 31~~[thirty (30) calendar days]~~ after the end of the annual performance period.

(3) All agencies shall use the Annual Employee Performance Evaluation form.

(4)(a) Except as provided in paragraph (b) or (c) of this subsection, the first line supervisor of an employee at the time the evaluation is due shall be the evaluator.

(b) If the first line supervisor has not supervised the employee for at least sixty (60) calendar days during the performance year, the next line supervisor who meets the sixty (60) day requirement shall be the evaluator.

(c) If an employee changes jobs or reports to a different supervisor on or before November 1 of the performance year, the agency shall transfer all performance evaluation documentation for the performance year to the new evaluator for incorporation in the annual evaluation.

(d) If an employee changes jobs or reports to a different supervisor after November 1 of the performance year, the annual evaluation shall be completed by the former supervisor prior to the job change.

(5)(a) Except as provided in paragraph (b) of this subsection, the evaluator shall establish a performance plan for each eligible employee no later than January 31~~[thirty (30) calendar days]~~ after the start of the performance period.

(b) If an employee's position or job title changes during the performance year, the evaluator shall establish a new performance plan no later than thirty (30) calendar days after the start of the position or job title change. The new performance plan shall become a part of the original performance year evaluation documentation.

(6) The evaluator shall meet with the employee when completing the performance plan to discuss job duties and expectations.

(7) Performance evaluations shall be in writing. The evaluator shall:

(a) Present and explain all documentation relevant to an

employee's performance evaluation;

(b) Discuss both the positive and negative aspects of performance with the employee at the annual evaluation;

(c) Elicit the employee's opinions and concerns; and

(d) Discuss measures to improve or enhance performance with the employee.

(8) The Personnel Cabinet or agency personnel shall provide supervisor evaluation training on the performance evaluation system.

(a) The appointing authority shall require that supervisor evaluation training is completed prior to completing performance planning, interim reviews, and annual evaluations of employees.

(b) The Personnel Cabinet shall monitor and validate compliance with supervisor evaluation training requirements.

(9) An employee shall complete orientation to the performance evaluation system prior to January 1 of the employee's initial performance evaluation period.~~[(10) Except as authorized by the appointing authority, an evaluator shall complete required performance planning, interim reviews, and annual evaluations for each eligible employee. If the appointing authority approves the exception, written justification for the decision shall be placed in the employee's personnel file.]~~

Section 2. Employee Eligibility. Performance evaluations shall be completed for all full-time classified employees with status at the beginning of the performance year who have remained in continuous merit status throughout the performance year.

Section 3. Performance Planning. (1) The performance plan shall specify job responsibilities and expectations in the four (4) categories established in this subsection.

(a) Job tasks.

1. The job tasks category shall identify specific duties and expectations of the position held by the employee.

2. The employee's job duties shall be consistent with the position description.

3. Duties and expectations shall be in writing.

4. The evaluator shall assign points to identified duties and expectations.

(b) Adaptability/initiative.

1. The adaptability/initiative category shall identify job requirements of the agency.

2. The evaluator shall place each requirement under this category in writing and assign points.

(c) Communication/teamwork.

1. The communication/teamwork category shall identify requirements of the agency.

2. The evaluator shall place each requirement under this category in writing and assign points.

(d) Self-management.

1. The self-management category shall identify requirements of the agency relating to workplace standards that shall include:

- a. Attendance;
- b. Punctuality;
- c. Career development;
- d. Responsibility; and
- e. Dependability.

2. The evaluator shall place each requirement under this category in writing and assign points.

~~(2)[3-]~~ The evaluator shall develop the performance plan after consultation with the employee.

~~(a)[a-]~~ The employee and evaluator shall certify in writing in the performance planning section of the evaluation form that the employee has met with the evaluator and is aware of the performance plan.

~~(b)[b-]~~ The next line supervisor shall certify that he or she has reviewed the duties and expectations of the employee and finds them to be reasonable and appropriate based upon the employee's job classification.

~~(3)[(2)]~~ Total points assigned for all four (4) categories shall equal 100 total points. The evaluator shall distribute points among the four (4) categories as follows:

(a) The job tasks category shall have a minimum of fifty (50)

VOLUME 41, NUMBER 10 – APRIL 1, 2015

points designated; and

(b) The other three (3) categories shall have a minimum of five (5) points designated to each category.

~~(4)~~⁽³⁾ To obtain the point total for each category, points assigned to each job duty within each category shall be multiplied by the numerical rating provided by the evaluator, as described in Section 5(3) of this administrative regulation.

~~(5)~~⁽⁴⁾ Total points in all four (4) categories shall be added to obtain a final performance evaluation score.

Section 4. Performance Coaching and Feedback. (1) Modification of the performance plan may occur during the performance evaluation period if the changes are consistent with the duties reflected on an employee's position description.

(a) The employee shall be given written notice of changes to the performance plan.

(b) Changes to the performance plan shall be indicated on the evaluation form or on a supplemental sheet attached to the form.

(c) Changes to the performance plan shall be initialed and dated by the evaluator and the employee when changes become effective.

(2) Three (3) interim reviews shall be required during a performance year.

(a) The evaluator shall document the interim reviews.

1. Interim reviews shall not contain a rating.

2. The interim meeting section of the evaluation form shall contain comments by the evaluator for each category established in Section 3(1) of this administrative regulation.

(b) The employee and evaluator shall sign the performance evaluation form to certify that the interim reviews occurred.

(c) For consideration in the annual year evaluation, the employee may attach pertinent comments relating to the interim review within five (5) working days of the interim review meeting.

~~(d) [Except as requested by the appointing authority and authorized by the Secretary of Personnel,]~~ The evaluator shall schedule interim reviews to discuss performance January 1 through April 30, May 1 through August 31, and September 1 through December 31.

(e) Interim reviews shall be completed no later than thirty (30) calendar days after the end of each interim review period.

(f) Interim reviews shall document performance to justify the annual performance rating.

Section 5. Performance Evaluations and Ratings. (1) Except as provided in Section 1(4)(d) of this administrative regulation, the evaluator and the employee shall meet no later than January 31~~[thirty (30) calendar days]~~ after the performance period ends to discuss the performance ratings.

(2) Eligible employees shall be evaluated in the four (4) categories described in Section 3 of this administrative regulation.

(3) All job duties identified within the categories shall be rated on a scale of one (1) to five (5), with five (5) representing superior performance.

(4) The final performance evaluation shall consist of a defined numerical rating. Point values for the overall performance rating shall be:

(a) Outstanding: 450 to 500 points;

(b) Highly effective: 350 to 449 points;

(c) Good: 250 to 349 points;

(d) Needs Improvement: 150 to 249 points; or

(e) Unacceptable: less than 150 points.

(5) Unresolved disagreements on ratings or any aspect of the performance evaluation shall be reviewed through the reconsideration process established in Section 7 of this administrative regulation.

(6) Signatures of the evaluator, employee and next line supervisor shall be required on the final evaluation.

(a) The next line supervisor shall sign the evaluation after it is completed, signed, and dated by the evaluator and the employee.

(b) For the purpose of evaluating or managing the performance of the evaluator, the next line supervisor's signature shall certify that he or she is aware of the evaluation and has reviewed it.~~(c) Exceptions to the requirements established in this subsection may~~

~~be requested by the appointing authority and shall be subject to the approval of the Secretary of Personnel.]~~

Section 6. Performance Incentives. Annual leave shall be awarded as a performance incentive at the following rates:

(1) Two (2) workdays, not to exceed sixteen (16) hours, for an "Outstanding" rating; or

(2) One (1) workday, not to exceed eight (8) hours, for a "Highly Effective" rating.

Section 7. Reconsideration and Appeal Process. (1) Within five (5) working days of a performance evaluation, an employee may request initial reconsideration of the performance evaluation by the evaluator.

(2) Within five (5) working days of the receipt of the request for reconsideration, the initial reconsideration shall be conducted by the evaluator~~[shall respond to the request in writing]~~.

(3) If the employee refuses to sign the form in the employee response section, the evaluation shall not be eligible for reconsideration.

(4) Within five (5) working days after the initial reconsideration by the evaluator, an employee may submit a written request for reconsideration of the evaluation by the next line supervisor. If neither the evaluator nor the next line supervisor responds to the request for reconsideration in the designated time period, the employee may submit a written request to the appointing authority for response to the request for reconsideration and compliance with this section.

(5) The next line supervisor shall:

(a) Obtain written statements from both the employee and the evaluator; or

(b) Meet individually with the employee and the evaluator.

(6) The next line supervisor shall inform both the employee and evaluator in writing of the decision no later than fifteen (15) working days after receipt of the employee's request.

(7) Within sixty (60) calendar days after an employee has received the written decision from the next line supervisor, the employee who has complied with this administrative regulation may appeal a final evaluation which has an overall rating in either of the two (2) lowest overall ratings to the Personnel Board.

Section 8. Evaluation-based Agency Action. If an employee receives an overall rating of unacceptable, the agency shall:

(1) Demote the employee to a position commensurate with the employee's skills and abilities; or

(2) Terminate the employee.

Section 9. Except as requested by the appointing authority and authorized by the Secretary of Personnel, all agencies shall comply with the provisions of this administrative regulation.

Section 10. Incorporation by Reference. (1) The "Annual Employee Performance Evaluation", March 2015~~[November 2011]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

TIM LONGMEYER, Secretary

APPROVED BY AGENCY: March 13, 2015

FILED WITH LRC: March 13, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015 at 10:00 a.m. at 501 High Street, 3rd floor, 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 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

VOLUME 41, NUMBER 10 – APRIL 1, 2015

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 April 30, 2015. 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: Dinah T. Bevington, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dinah T. Bevington

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the uniform employee performance evaluation system.

(b) The necessity of this administrative regulation: This regulation is necessary to establish a uniform system of annual employee evaluations for classified employees, and fulfills the secretary's statutory requirements to promulgate comprehensive regulations regarding the evaluation system.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.030 requires the secretary to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A. Further, regulations which establish a uniform employee performance evaluation system are required pursuant to KRS 18A.110(1)(i) and (7)(j).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the uniform employee performance evaluation system, and explains how it is to be administered.

(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 is amended to remove an appointing authority's ability to waive requirements that an evaluator complete required performance planning, interim reviews, and annual evaluations for an eligible employee. However, the Secretary of the Personnel Cabinet retains authority to approve an exception to the requirements. Further, the reference to an employee's "classification" is updated to specify "job classification" for consistency with terminology used throughout the human resources enterprise. The regulation is also amended to clarify the annual performance evaluations and performance plans must be completed by January 31st. The evaluation form is also amended to clarify the steps established by the reconsideration process and to make the form consistent with the regulation terms.

(b) The necessity of the amendment to this administrative regulation: This amendment is needed to ensure the consistent application of the employee evaluation system to all KRS Chapter 18A classified employees.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment is consistent with authority provided in KRS 18A.030; and KRS 18A.110(1)(i) and (7)(j).

(d) How the amendment will assist in the effective administration of the statutes: This amendment ensures that the requirements of the employee evaluation system are applied consistently to all KRS Chapter 18A classified employees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A classified employees and their agencies are affected.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required.

(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 anticipated to any entity

identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional 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: This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted employees the same.

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? All state agencies with classified employees covered under KRS Chapter 18A.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030; and KRS 18A.110(1)(i) and (7)(j).

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? No revenue will be generated.

(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.

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments within this regulation.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PERSONNEL CABINET (Amendment)

101 KAR 3:015. Leave requirements for unclassified service.

RELATES TO: KRS 18A.030, 18A.110, 18A.195, 61.394, 344.030, 29 U.S.C. 201 – 219, 2601 – 2654

STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.155, 344.030, 29 U.S.C. 201 – 219, 2601 – 2654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(7)(g) requires the Secretary of Personnel, with the approval of the Governor, to promulgate administrative regulations

VOLUME 41, NUMBER 10 – APRIL 1, 2015

to govern annual leave, sick leave, special leaves of absence, and other conditions of leave. This administrative regulation establishes the leave requirements for unclassified employees.

Section 1. Annual Leave. (1) Accrual of annual leave.

(a) Each full-time employee shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180-239 months	1 3/4 days per month; 21 per year
240 months & over	2 leave days per month; 24 per year

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave.

(c) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(d) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(e) A former employee who has been rehired, except as provided in paragraph (f) of this subsection, shall receive credit for prior service, unless the employee had been dismissed as a result of misconduct or a violation of KRS 18A.140, 18A.145, or 18A.990.

(f) An employee, who has retired from a position covered by a state retirement system, is receiving retirement benefits, and returns to state service, shall not receive credit for months of service prior to retirement.

(g) A part-time or interim employee shall not be entitled to annual leave.

(2) Use and retention of annual leave.

(a) Annual leave shall be used in increments of hours or one-quarter (1/4) hours.

(b) Except as provided in paragraph (c) of this subsection, an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency permit.

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward pursuant to this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave.

(e) An employee shall be able to use annual leave for an absence on a regularly scheduled workday.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated annual leave in the receiving agency.

(g) An employee who is eligible for state contributions for life insurance pursuant to ~~the provisions of~~ KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous month.

(h) An employee who is eligible for state contributions for health benefits pursuant to ~~the provisions of~~ KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(i) Annual leave may be carried from one (1) calendar year to the next. If annual leave is carried from one (1) calendar year to the next, leave shall be calculated as established in the following table:

Months of Service	Maximum Amount	37.5 Hour Week Equivalent	40 Hour Week Equivalent
0-59	30 workdays	225 hours	240 hours
60-119 months	37 workdays	277.50 hours	296 hours
120-179	45	337.50 hours	360 hours

months	workdays		
180-239 months	52 workdays	390 hours	416 hours
240 months and over	60 workdays	450 hours	480 hours

(j) Leave in excess of the maximum amounts specified in paragraph (i) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement.

(k) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(d) of this section.

(3) Annual leave on separation.

(a)1. If an employee is separated by proper resignation or retirement, ~~the employee[he]~~ shall be paid in a lump sum for accumulated annual leave.

2. The accumulated annual leave for which ~~the employee[he]~~ is paid shall not exceed the amounts established by subsection (2)(i) of this section.

3. Following payment of annual leave at resignation, any remaining annual leave after the payment of the maximum shall:

- a. Not be paid to the employee or converted to sick leave; and
- b. Be removed from the balance.

(b) If an employee is laid off, ~~the employee[he]~~ shall be paid in a lump sum for all accumulated annual leave.

(c) An employee in the unclassified service who reverts to the classified service, or resigns or is terminated one (1) day and is employed the next workday, shall retain ~~the[his]~~ accumulated leave in the receiving agency.

(d) An employee who has been dismissed for cause related to misconduct or who has failed, without proper excuse, to give proper notice of resignation or retirement shall not be paid for accumulated annual leave.

(e) Upon the death of an employee, ~~the employee's[his]~~ estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(f) An employee may request in writing that ~~his~~ accumulated annual leave not be paid upon resignation, and that all or part of the amount of ~~his~~ accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. ~~The employee[He]~~ resigns, or is laid off ~~from his position~~, because of an approved plan of privatization of the services ~~he~~ performed; and

2. The successor employer has agreed to credit ~~the employee[him]~~ with an equal amount of annual leave.

Section 2. Sick Leave. (1) Accrual of sick leave.

(a) An employee, except a part-time employee, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave.

(c) An employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) A full-time employee who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(e) A full-time employee who completes 240 months of total service with the state shall be credited with another ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service.

(f) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(g) The total service shall be verified before the leave shall be credited to the employee's record.

(h) A former employee who has been rehired, except as provided in paragraph (i) of this subsection, shall receive credit for prior service, unless the employee had been dismissed as a result of misconduct or a violation of KRS 18A.140, 18A.145, or 18A.990.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(i) A former employee, other than a former employee receiving benefits pursuant to a state retirement system, who is appointed to an unclassified position, shall be credited with the unused sick leave balance upon separation.

(j) Sick leave may be accumulated with no maximum.

(2) Use and retention of sick leave.

(a) An appointing authority shall grant or may require the use of sick leave with or without pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;

2. Is disabled by illness or injury. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's inability to perform the employee's duties for the days or hours sick leave is requested. If requested by the appointing authority, the employee shall provide a certificate from an appropriate medical health professional certifying the employee's fitness to return to duty before the employee is permitted to return to work;

3. Is required to care for or transport a member of the employee's immediate family in need of medical attention for a reasonable period of time. If requested by the appointing authority, the employee shall provide a statement from an appropriate medical health professional certifying the employee's need to care for a family member; or

4. Would jeopardize the health of the employee or others at the employee's work station because of a contagious disease or demonstration of behavior that might endanger the employee or others.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to the employee's former position.

(c) An employee eligible for state contributions for life insurance pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or education leave, during any part of the previous month.

(d) An employee who is eligible for state contributions for health benefits pursuant to the provisions of KRS Chapter 18A shall have worked or been on paid leave, other than holiday or educational leave, during any part of the previous pay period.

(e) Sick leave shall be used in increments of hours or one-quarter (1/4) hours.

(f) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain his accumulated sick leave in the receiving agency.

(g) An employee shall be credited for accumulated sick leave if ~~he is~~ separated by proper resignation, layoff, or retirement.

(h) The duration of an interim employee's appointment shall not be extended by the use or approval for sick leave with or without pay.

(3) Sick leave without pay.

(a) An appointing authority shall grant sick leave without pay, without a change in the employee's personnel status, for the duration of an employee's impairment by injury or illness, if:

1. The leave does not exceed thirty (30) continuous calendar days; and

2. The employee has used or been paid for all accumulated annual, sick, and compensatory leave unless the employee has requested to retain up to ten (10) days of accumulated sick leave.

(b) An appointing authority shall grant sick leave without pay to an employee who does not qualify for family and medical leave due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for a member of the immediate family, or for the duration of the employee's impairment by illness or injury, for a period not to exceed thirty (30) working days.

(4) Sick leave by personnel action.

(a) If the duration of an employee's impairment by illness or injury exceeds the sick leave without pay allotment of thirty (30) calendar days, including holidays, the appointing authority shall place the employee on sick leave without pay by personnel action.

(b) The appointing authority shall notify the employee in writing that the employee is being placed on sick leave by personnel action.

(c) Sick leave by personnel action shall not exceed one (1) year.

(d) If requested by the appointing authority, the employee shall provide statements during the year from an appropriate medical health professional attesting to the employee's continued inability to perform the essential functions of the employee's duties with or without reasonable accommodation.

(e) If an employee has given notice of the employee's ability to resume his duties following sick leave by personnel action, the appointing authority shall return the employee to the original position or to a position for which the employee is qualified and which resembles the former position as closely as circumstances permit. The appointing authority shall notify the employee in writing of the following:

1. The effective date of the employee's return;
2. The position to which the employee is being returned; and
3. The employee's salary upon return to work.

(f) If reasonable accommodation is requested, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be deemed resigned if the employee:

1. Has been on one (1) year continuous sick leave by personnel action;

2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of leave;

3. Is unable to return to the employee's former position;

4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which the employee is qualified and is capable of performing its essential functions with or without reasonable accommodation; and

5. Has not been placed by the appointing authority in a vacant position.

(h) Sick leave granted pursuant to this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee who is deemed resigned pursuant to paragraph (g) of this subsection shall retain reinstatement privileges that were accrued during service in the classified service.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, an employee shall notify the immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall be cause for denial of sick leave for the period of absence.

(d) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave.

(e) A medical certificate may be required, signed by a licensed practitioner and certifying to the employee's incapacity, examination, or treatment.

(f) An appointing authority shall grant sick leave if the application is supported by acceptable evidence but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

Section 3. Family and Medical Leave. (1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 20 U.S.C. 2601 – 2654, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee in state service shall qualify for twelve (12) weeks of unpaid family leave if the employee has:

(a) Completed twelve (12) months of service; and

(b) Worked or been on paid leave at least 1,250 hours in the twelve (12) months immediately preceding the first day of family

VOLUME 41, NUMBER 10 – APRIL 1, 2015

and medical leave.

(3) Family and medical leave shall be awarded on a calendar year basis.

(4) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.

(5) While an employee is on unpaid family and medical leave, the state contribution for health and life insurance shall be maintained by the employer.

(6) If the employee would qualify for family and medical leave, but has an annual, compensatory, or sick leave balance, upon the employee's request, the agency shall permit the employee to:

(a) Reserve ten (10) days of accumulated sick leave and be placed on FMLA leave; or

(b) Use accrued paid leave concurrently with FMLA leave [the agency shall not designate the leave as FMLA leave until:

(a) The employee's leave balance has been exhausted; or

(b) The employee requests to reserve ten (10) days of accumulated sick leave and be placed on unpaid FMLA leave].

Section 4. Court Leave. (1) An employee shall be entitled to court leave during the employee's[his] scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, or body of the federal or state government or any political subdivision thereof; or

(b) Serve as a juror or a witness, unless the employee or a member of the employee's[his] family is a party to the proceeding.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or witness during the employee's[his] normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of the employee's[his] assigned duties.

Section 5. Compensatory Leave and Overtime. (1) Accrual of compensatory leave and overtime.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee who is directed to work, or who requests and is authorized to work, in excess of the prescribed hours of duty shall be granted compensatory leave and paid overtime subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8, the Kentucky Revised Statutes, and this administrative regulation.

(c) An employee deemed to be "nonexempt" by the provisions of the FLSA shall be compensated for hours worked in excess of forty (40) per week as provided by subparagraphs 1 through 3 of this paragraph.

1. An employee who has not accumulated the maximum amount of compensatory leave shall have the option to accumulate compensatory leave at the rate of an hour and one-half (1 1/2) for each hour worked in excess of forty (40) per week in lieu of paid overtime.

2. The election to receive compensatory leave in lieu of paid overtime shall be in writing on the Overtime Compensation Form and shall remain in force for a minimum of three (3) months. The election shall be changed by the submission of a new form. The effective date of a change shall be the first day of the next workweek following receipt of the election.

3. An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times the[his] regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(d) An employee deemed to be "exempt" pursuant to the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours worked in excess of the[his] regular work schedule.

(e) Compensatory leave shall be accumulated or taken off in one-quarter (1/4) hour increments.

(f) The maximum amount of compensatory leave that may be

carried forward from one (1) pay period to another shall be:

1. 239.99 hours by an employee in a non policy-making position; or

2. 240 hours by an employee in a policy-making position.

(g) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the[his] compensatory leave in the receiving agency.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has accrued at least 100 hours compensatory leave to use compensatory leave before annual leave and shall otherwise allow the use of compensatory leave if it will not unduly disrupt the operations of the agency.

(b) An appointing authority may require an employee who is not in a policy-making position and has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours.

(c) An employee who is not in a policy-making position may, after accumulating 151 hours of compensatory leave, request payment[that he be paid] for fifty (50) hours at the[his] regular rate of pay. If the appointing authority or the[his] designee approves the payment, an employee's leave balance shall be reduced accordingly.

(d) An employee who is not in a policy-making position shall be paid for fifty (50) hours at the[his] regular hourly rate of pay, upon accumulating at the end of the pay period, 240 hours of compensatory leave. The employee's leave balance shall be reduced accordingly.

(e) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee[he] shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and

2. Do not exceed the maximum amount of compensatory time that is permitted.

(f) Only hours actually worked shall be used for computing paid overtime or time and one-half (1 1/2) compensatory time.

(g) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the employee's[his]:

1. Regular hourly rate of pay; or

2. Average regular rate of pay for the final three (3) years of employment.

Section 6. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the[Kentucky] National Guard shall be relieved from the[his] civil duties, to serve under order on training duty without loss of the[his] regular compensation for a period not to exceed the number of working days specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged to leave.

(3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, compensatory leave, or leave without pay.

(4) If requested by the appointing authority, the employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for the period of duty in accordance with KRS 61.373. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 7. Voting and Election Leave. (1) An employee who is eligible and registered to vote shall be allowed, upon prior request and approval, four (4) hours, for the purpose of voting.

(2) An employee casting an absentee ballot shall record the leave on the day the employee's vote is cast. An employee shall be regularly scheduled to work on the day the vote is cast in order to

VOLUME 41, NUMBER 10 – APRIL 1, 2015

receive the leave.

(3) An election officer shall receive additional leave if the total leave for election day does not exceed a regular workday.

(4)~~(3)~~ The absence shall not be charged against leave.

(5)~~(4)~~ An employee who is permitted or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an hour-for-hour basis for the hours during the times the polls are open, up to a maximum of four (4) hours.

Section 8. Funeral and Bereavement Leave. (1) Upon the approval of the appointing authority, an employee who has lost an immediate family member by death may utilize five (5)~~three (3)~~ days of accrued sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof.

(2) An appointing authority may approve the use of additional sick leave, compensatory leave, annual leave, or leave without pay if the employee does not have accrued leave, or a combination thereof, at the request of the employee following the loss of an immediate family member.

(3) For purposes of funeral and bereavement leave, an immediate family member shall include the employee's spouse, parent, grandparent, child, brother, or sister, or the spouse of any of them, and may include other relatives of close association if approved by the appointing authority.

Section 9. Special Leave of Absence. (1) If approved by the secretary, an appointing authority may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months or the conclusion of the administration in which the employee is serving, whichever comes first.

(b) If granted, leave shall be granted either with pay (if the employee contractually agrees to a service commitment) or without pay.

(c) Leave shall be restricted to attendance at a college, university, vocational, or business school for training in subjects that relate to the employee's work and will~~shall~~ benefit the state.

(2) An appointing authority, with approval of the secretary, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.

(3)~~(a)~~ If approved by the secretary, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of an allegation of employee misconduct.

~~(a)~~~~(b)~~ Leave shall not exceed sixty (60) working days.

~~(b)~~~~(c)~~ The employee shall be notified in writing by the appointing authority that the employee~~he~~ is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

~~(c)~~~~(d)~~ If the investigation reveals no misconduct by the employee, records relating to the investigation shall be purged from agency and Personnel Cabinet files.

~~(d)~~~~(e)~~ The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. This notification shall be made to the employee, whether the employee~~he~~ has remained in state service, or has voluntarily resigned after being placed on special leave for investigative purposes.

Section 10. Absence Without Leave. (1) An employee who is absent from duty without prior approval shall report the reason for the~~his~~ absence to the~~his~~ supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

(c) Constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be

deemed resigned.

Section 11. Absences Due to Adverse Weather. (1) An employee, who is not designated for mandatory operations and chooses not to report to work or chooses to leave early in the event of adverse weather conditions such as tornado, flood, blizzard, or ice storm, shall have the time of the~~his~~ absence reported as:

(a) Charged to annual or compensatory leave;

(b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or

(c) Deferred in accordance with subsections (3) and (4) of this section.

(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested.

(3) If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an employee shall be given an opportunity to make up time not worked rather than charging it to leave.

(4) An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.

(a) Time lost shall be made up within four (4) months of the occurrence of the absence. If it is not made up within four (4) months, annual or compensatory leave shall be deducted to cover the absence, or leave without pay shall be charged if no annual or compensatory leave is available.

(b) If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual or compensatory leave or deducted from the final paycheck.

(5) If catastrophic, life-threatening weather conditions occur, as created by a tornado, flood, ice storm, or blizzard, and it becomes necessary for authorities to order evacuation or shutdown of the place of employment, the provisions established in paragraphs (a) and (b) of this subsection shall apply.~~[an employee who is required to:]~~

(a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time that is lost from work during the period officially declared hazardous to life and safety.~~[: and]~~

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 5 of this administrative regulation and the Fair Labor Standards Act, 29 U.S.C. Chapter 8.

Section 12. Blood Donation Leave. (1) An employee who, during regular working hours, donates whole blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.

(2) Leave granted pursuant to this section shall be used at the time of the donation unless circumstances as specified by the supervisor required the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.

(3) An employee shall request leave in advance to qualify for blood donation leave.

(4) An employee who is deferred from donating blood shall not:

(a) Be charged leave time for the time spent in the attempted donation; and

(b) Qualify for the remainder of the blood donation leave.

Section 13. Incorporation by Reference. (1) "Overtime Compensation Form", May 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

TIM LONGMEYER, Secretary

APPROVED BY AGENCY: March 13, 2015

FILED WITH LRC: March 13, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A

VOLUME 41, NUMBER 10 – APRIL 1, 2015

public hearing on this administrative regulation shall be held on Tuesday, April 21, 2015 at 10:00 a.m. at 501 High Street, 3rd floor, 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 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 written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2015. 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: Dinah T. Bevington, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dinah T. Bevington

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation details the various types of leave available to KRS Chapter 18A unclassified employees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the various types of leave available to KRS Chapter 18A unclassified employees, and the requirements for these types of leave.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) and KRS 18A.155 require the Secretary of Personnel to promulgate administrative regulations which govern leave.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: These amendments are necessary to ensure the consistent application and handling of employee leave.

(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 Military Leave section of this regulation is amended to remove the limitation of membership in Kentucky's National Guard for eligibility. This change makes the language consistent with KRS 61.394. An employee who is a member of any state's National Guard is eligible. The Voting and Election Leave section of this regulation is amended to state that an employee casting an absentee ballot shall record the leave on the day the employee's vote is cast. The Funeral and Bereavement Leave section is amended to extend an employee's funeral and bereavement leave entitlement from three (3) to five (5) days in the event of the loss of an immediate family member. The Blood Donation Leave section is amended to clarify that an employee must donate whole blood to qualify for blood donation leave. Lastly, any and all gender-specific references have been removed from the regulation. Other small language adjustments have been made in order to increase the readability of the regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify an employee's voting leave and blood donation leave entitlement. Further, the amendment is necessary to extend an employee's entitlement to funeral and bereavement leave from three (3) to five (5) days.

(c) How the amendment conforms to the content of the authorizing statutes: Pursuant to 18A.030(2), the Personnel Cabinet Secretary is required to promulgate comprehensive regulations consistent with the provisions for KRS Chapter 18A. KRS 18A.110(7)(g) and KRS 18A.155 require the Secretary of Personnel to promulgate administrative regulations which govern leave.

(d) How the amendment will assist in the effective administration of the statutes: This amendment corrects language in the Military Leave section, making it consistent with KRS 61.394. This amendment also clarifies an employee's voting leave and blood donation leave entitlement, assisting in the administration of these types of leave. Lastly, the amendment is necessary to extend an employee's entitlement to funeral and bereavement leave from three (3) to five (5) days.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A unclassified employees and other individuals subject to the provisions of 101 KAR 3:015 will be subject to the provisions of this 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: No additional action is required.

(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 anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): KRS Chapter 18A unclassified employees' funeral and bereavement leave entitlement funeral and bereavement leave entitlement is extended from three (3) to five (5) days in the event of the loss of an immediate family member. However, this will not result in any additional costs since, pursuant to the regulation, employees must use their accrued leave balances in such an event. No additional leave is accrued due to this amendment.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional 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: This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted employees the same.

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? All state agencies with unclassified employees covered under KRS Chapter 18A.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), KRS 18A.110(7)(g), and KRS 18A.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? No revenue will be generated.

(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.

(c) How much will it cost to administer this program for the first year? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments within this regulation.

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

- Revenues (+/-):
- Expenditures (+/-):
- Other Explanation:

**GENERAL GOVERNMENT CABINET
Kentucky Board of Landscape Architects
(Amendment)**

201 KAR 10:050. Fees.

RELATES TO: KRS 323A.040, 323A.050, 323A.060, [323A.070,] 323A.100(1), (4), (5), 323A.105

STATUTORY AUTHORITY: KRS 323A.060, 323A.100(1), 323A.210(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 323A.060 requires the board to promulgate an administrative regulation to establish application, reinstatement, reactivation, renewal, and duplicate license fees[~~for services~~]. This administrative regulation establishes fees for landscape architect licensees.

Section 1. Fees. The following nonrefundable fees shall ~~apply~~[~~be paid as applicable~~]:

- (1) Renewal fees:
 - (a) Active license: \$200[~~or~~]
 - (b) Inactive license: \$150; ~~or~~
 - (c) Retired license: twenty-five (25) percent of the active license renewal fee established in paragraph (a) of this subsection;
 - (2) Duplicate license[~~certificate~~]: twenty-five (25) dollars;
 - (3) Application fee: \$250[~~issuance of original license certificate: \$200~~];
 - (4) Reinstatement fee:
 - (a) Within thirty (30) days of expiration: 120 percent of the active license renewal fee established in subsection (1)(a) of this section;
 - (b) Between thirty-one (31) and sixty (60) days of expiration: 140 percent of the active license renewal fee established in subsection (1)(a) of this section;
 - (c) Between sixty-one (61) days and one (1) year of expiration: 200 percent of the active license renewal fee established in subsection (1)(a) of this section; ~~or~~
 - (d) Beyond one (1) year of expiration: 300 percent of the active license renewal fee established in subsection (1)(a) of this section; ~~and~~[~~Restoration of a suspended license: the renewal fee established in subsection (1) of this section, plus an amount calculated pursuant to KRS 323A.100(1);~~]
 - (5) Reactivation fee: equal to the active license renewal fee established in subsection (1)(a) of this section[\$170];
 - (6) ~~Reciprocal application fee issuance of a license on reciprocity basis: \$250; and~~
 - (7) Examination:
 - (a) ~~Processing fee. A \$100 nonrefundable processing fee shall be submitted with a new application for examination; and~~
 - (b) Examination sections:
 - 1. Section C: \$295; and
 - 2. Section E: \$295].

THOMAS J. NIEMAN, President

APPROVED BY AGENCY: March 12, 2015

FILED WITH LRC: March 12, 2015 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, April 28, 2015 at 11:00 AM, local time, at the Kentucky Board of Landscape Architects, 163 West Short Street, 3rd Floor Conference Room, Lexington, Kentucky 40507. 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 through Thursday, April 30, 2015. 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: Jane Alexander Gardner, Executive Director, Ky. Board of Landscape Architects, 163 West Short Street, Suite 351, Lexington, Kentucky 40507, phone (859) 246-2753, fax (859) 246-2754.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jane Alexander Gardner

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: Updates fees, titles of fees and eliminates fees no longer applicable to comply with the recently amended fee statute (KRS 323A.060).
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to easily understand fee titles recently updated and bring the fees into compliance with KRS 323A.060.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 323A.060 requires the board to establish fees.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation more clearly informs applicants and licensees of the fees associated with 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 administrative regulation stipulates specific titles to fees which provides clarity, and brings the titles in alignment with the fee titles recently updated in KRS 323A.060.
 - (b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary in order to align the fee titles with the fee titles recently amended in KRS 323A.060
 - (c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation references the same titles of fees that were recently updated in KRS 323A.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment will bring into alignment the fees and titles as allowed by KRS 323A.060.
 - (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 only the current (~300) individual licensees of the board as well as any potential applicants (~20 per 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: No action is required by the individuals impacted by this regulation amendment.
 - (b) In complying with this administrative regulation or

amendment, how much will it cost each of the entities identified in question (3): As this regulation amendment reduces fees, it will cost the impacted licensees either the same amount or less than it does currently.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Fees are either eliminated or reduced for licensees.

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

(a) Initially: \$0 other than the cost of board personnel and board members' time in going through the administrative regulation amendment process.

(b) On a continuing basis: \$0

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: While the board expects there to be no costs associated with this regulation amendment, all funding for this board originates from 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 new or increase in fees are expected to be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation reduced not only the number of fees assessed by this board, but reduced continuing fees.

(9) TIERING: Is tiering applied? No tiering is applied as each applicant or license renewal requires the same documentation / fees as any other.

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? Only those licensed by the Kentucky Board of Landscape Architects

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. No federal statute or regulation. KRS 323A.

(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? As this is an amendment to an existing regulation, likely revenue will be reduced from previous years as examination fees are no longer assessed and reinstatement fees are being substantially reduced.

(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? As this is an amendment to an existing regulation, likely revenue will be reduced from previous years as examination fees are no longer assessed and reinstatement fees are being substantially reduced.

(c) How much will it cost to administer this program for the first year? There are no costs associated with this regulation amendment, initially or in subsequent years.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with this regulation amendment, initially or 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 (+/-): Between \$0 to -\$2,000

Expenditures (+/-): \$0

Other Explanation:

PUBLIC PROTECTION CABINET Office of Occupations and Professions Board of Prosthetics, Orthotics and Pedorthics (Amendment)

201 KAR 44:010. Fees.

RELATES TO: KRS 319B.030

STATUTORY AUTHORITY: KRS 319B.030(1)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.030(1)(f) requires the board to promulgate administrative regulations to carry out the provisions of KRS Chapter 319B. KRS 319B.030(1)(f) requires fees for applications, renewals and reinstatements, late renewals and applications for continuing education course approvals and duplicate licenses or replacements. This administrative regulation establishes those fees.

Section 1. Application Fees. The following fees shall be paid for applications for the following licenses issued by the board:

(1) The fee for an application as a Licensed Prosthetist, a Licensed Orthotist, or dual licensure as a Licensed Orthotist/Prosthetist shall be a \$100 nonrefundable application fee and ~~\$350~~~~[\$250]~~ for the initial license fee; and

(2) The fee for application as a Licensed Pedorthist shall be a \$100 nonrefundable application fee and ~~\$300~~~~[\$200]~~ for the initial license fee; and

(3) The fee for application as a Certified Fitter shall be a \$100 nonrefundable application fee and ~~\$250~~~~[\$150]~~ for the initial license fee.

(4) The board shall refund the initial license fee to an applicant who does not qualify or has been denied a license.

Section 2. Renewal and Reinstatement. The following fees shall be paid for renewals and reinstatements for licenses issued by the board:

(1) The renewal fee on or before July 1 for a Licensed Prosthetist, a Licensed Orthotist, or dual licensure as a Licensed Orthotist/Prosthetist shall be ~~\$350~~~~[\$250]~~;

(2) The renewal fee on or before July 1 for a Licensed Pedorthist shall be ~~\$300~~~~[\$200]~~ dollars; and

(3) The renewal fee on or before July 1 for a Licensed Orthotic Fitter shall be ~~\$250~~~~[\$150]~~.

(4) The late renewal fee for all licenses during the grace period starting July 1 and ending January 1 shall be ~~\$600~~~~[\$500]~~, in addition to the initial license fee as set forth in Section 1 of this administrative regulation.

(5) The reinstatement fee after January 1 of a license suspended or revoked or for failure to submit the statement of compliance for the current year shall be ~~\$200~~~~[\$100]~~ in addition to the late renewal fee as set forth in subsection (4) above and in addition to the initial license fee in Section 1 of this administrative regulation.

Section 3. Duplicate or Replacement License Fee. The fee for a duplicate license shall be ten (10) dollars.

Section 4. Application for Continuing Education Course Approval. The application fee for continuing education course approval shall be fifty (50) dollars per event.

SIENNA NEWMAN, Chairperson

APPROVED BY AGENCY: February 25, 2015

FILED WITH LRC: March 12, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2015, at 2:00 p.m. Eastern time, at the Kentucky Board of Licensure for Orthotists, Prosthetists, Orthotists/Prosthetists, Pedorthists, or Orthotic Fitters, 911 Leewood Drive, Frankfort, Kentucky 40601. 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

VOLUME 41, NUMBER 10 – APRIL 1, 2015

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 April 30, 2015. 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: J. Marcus Jones, Board Counsel, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601, phone (502) 696-5300, fax (502) 564-6801.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marcus Jones

(1) Provide a brief summary of:

(a) What this administrative regulation does: Sets the fees an applicant is to pay to apply for license.

(b) The necessity of this administrative regulation: The regulation is necessary because licensure fees are the sole means of revenue for the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319B.030 (1)(f) authorizes the board to establish fees to be paid for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the required fees for 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: The amendment will increase all fees by \$100.

(b) The necessity of the amendment to this administrative regulation: The board's only revenue is licensure fees and due to significant increase in administrative costs, substantial litigation costs and expenses researching the board's selection in examinations, the board's revenue has significantly decreased putting it in jeopardy of operating at a deficit.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 319B.030(1)(g) states that the fees shall be set at a level that is adequate to pay all the expenses of administering licensure, the amendment will allow the board to continue to pay all the expenses of administering licensure.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow the board to pay for the staffing needed to administer the statutes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 188 licensees affected by this amendment.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation increases the fee by \$100 for each license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It will cost an additional \$100 to each licensee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The licensees will be granted a license if they meet the other statutory requirements.

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

(a) Initially: There will be no additional cost to implement this regulation.

(b) On a continuing basis: There will be no additional ongoing cost to implement this 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 solely 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: This administrative regulation does not require an increase in fees to implement the regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation does establish a fees for the various licenses issued by the board.

(9) TIERING: Is tiering applied? Yes, tiering of fees is applied based on the license.

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? Kentucky Board of Prosthetics, Orthotics and Pedorthics.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319B.030(1)(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.

(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? \$18,000.00.

(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? \$18,000.00.

(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 (+/-): N/A
Expenditures (+/-): N/A
Other Explanation: N/A

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care
(Amendment)

900 KAR 2:050. Transfer and discharge rights.

RELATES TO: KRS 216.525, 216.555, 216.557, 216.560[194.030(12)(b)]

STATUTORY AUTHORITY: KRS 216.515(4), [216.525, 216.557, 216.560,] 42 C.F.R. 483.12

NECESSITY, FUNCTION, AND CONFORMITY: 42 C.F.R. [C.F.R.] 483.12 requires that the state shall have in effect a fair and impartial decision making process for appeals related to involuntary transfer and discharge. This administrative regulation sets forth guidelines for this process for long-term care facilities, including [as licensed by 902 KAR 20:300 or those] long-term care facilities certified in accordance with 42 C.F.R. 483. This administrative regulation sets forth the requirements of the Kentucky Nursing Home Reform Act as it relates to residents' transfer and discharge rights.

Section 1. Definitions. (1) "Discharge" or "transfer" means:

(a) Relocation of a resident from a long-term care facility to a noninstitutional setting or another health care facility as defined by KRS Chapter 216B; or

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(b) Any intrafacility relocation of a resident, except between beds within the same distinct Medicare or Medicaid certified or noncertified part of the facility.

(2) "Facility" means a long-term care facility as defined by KRS 216.510(1) ~~excluding those facilities licensed as~~ family care homes licensed pursuant to 902 KAR 20:041.

(3) "Resident" means a resident of a facility or any legal representative or individual acting on behalf of the resident.

(4) "Transfer or discharge rights" means those rights of notification and appeal guaranteed in KRS 216.515(4) and (26), and as outlined in this administrative regulation.

Section 2. Transfer and Discharge Rights. (1) Transfer and discharge requirements. The facility ~~shall~~must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;~~or~~

(b) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;~~or~~

(c) The safety of individuals in the facility is endangered;~~or~~

(d) The health of individuals in the facility would otherwise be endangered;~~or~~

(e) The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare, Medicaid or state supplementation) a stay at the facility; or

(f) The facility ceases to operate.

(2) Documentation. Before a facility transfers or discharges a resident under any of the circumstances specified in subsection (1)(a) ~~through~~or (e) of this section, the reasons for ~~the~~this transfer or discharge shall be documented in the resident's clinical record. The documentation shall be made by:

(a) The resident's physician when transfer or discharge is necessary under subsection (1)(a) or (b) of this section; and

(b) A physician when transfer or discharge is necessary under subsection (1)(d) of this section.

(3) Notice before transfer. Before a facility transfers or discharges a resident, the facility shall:

(a) Notify the resident and, if known, a family member or legal representative of the resident, in writing, of the transfer or discharge and the reasons for the relocation in a language and manner they understand;

(b) Record the reasons in the resident's clinical record; and

(c) Include in the notice the items described in subsection (5) of this section.

(4) Timing of the notice.

(a) Except ~~as~~when specified in paragraph (b) of this subsection, the notice of transfer or discharge required under subsection (3) of this section shall be made by the facility at least thirty (30) days before the resident is transferred or discharged.

(b) Notice may be made as soon as practicable before transfer or discharge when:

1. An immediate transfer or discharge is required by the resident's urgent medical needs, under subsection (1)(a) of this section;~~or~~

2. The resident's health improves sufficiently to allow a more immediate transfer or discharge, under subsection (1)(b) of this section;~~or~~

3. The safety of individuals in the facility would be endangered, under subsection (1)(c) of this section;~~or~~

4. The health of individuals in the facility would be endangered, under subsection (1)(d) of this section; or

5. The resident has not resided in the facility for thirty (30) days.

(5) Contents of the notice. The written notice specified in subsection (3) of this section shall include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location to which the resident is transferred or discharged;

(d) A statement that the resident has the right to appeal the action to the cabinet;

(e) The name, address and telephone number of the state long-term care ombudsman; and

(f) For nursing facility residents with developmental disabilities, or who are mentally ill, the mailing address and telephone number of~~the Department of~~ Kentucky Protection and Advocacy.

(6) Orientation for transfer or discharge. A facility ~~shall~~must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(7) Notice of bed-hold policy and readmission.

(a) Notice before transfer. Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the facility shall provide written information to the resident and a family member or legal representative that specifies the following:

1. The duration of the bed-hold policy, which shall be requested if available under the Medicaid state plan and provider agreement, during which a resident who receives Medicaid or has a pending application for Medicaid benefits~~That for residents receiving or who have an application pending for Medicaid, that if available under the Medicaid state plan and provider agreement, bed-hold days shall be requested and the time period to the bed-hold policy under the Medicaid state plan during which the resident~~ is permitted to return and resume residence in the facility;

2. The facility's policies regarding bed-hold periods, which ~~shall~~must be consistent with paragraph (c) of this subsection, permitting a resident to return; and

3. For residents who do not receive or do not have an application pending for Medicaid, the facility's established policy governing readmission.

(b) Notice upon transfer. ~~Upon~~At the time of transfer of a resident to a hospital or for therapeutic leave, a long-term care facility shall provide written notice to the resident and a family member or legal representative, which specifies the duration of the bed-hold policy described in paragraph (a) of this subsection.

(c) Permitting resident to return to facility. A long-term care facility shall establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed-hold period under the Medicaid state plan, is notified and readmitted to the facility immediately upon the first availability of a bed in a semiprivate room if the resident:

1. Chooses to be readmitted;~~and~~

2. Requires the services provided by the facility; and

3. Is eligible for Medicaid nursing facility services and the facility is certified to participate in Title XVIII or Title XIX of the Social Security Act.

(8) Equal access to quality care. A facility ~~shall~~must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of service under the Medicaid state plan for all individuals regardless of source of payment.

Section 3. Appeals Rights. (1) A resident may appeal any discharge.

(2) A resident may appeal a transfer if he or she~~when he~~ is transferred from:

(a) A certified bed into a noncertified bed; or

(b) A bed in a certified entity to a bed in an entity which is certified as a different provider.

(3) A resident has no appeal rights if he or she~~when he~~ is moved from a certified bed into another certified bed of the same certification in the same facility.

(4) A resident, or any person acting on behalf of the resident, may request that the cabinet review any proposed transfer or discharge. The cabinet shall investigate the proposed~~this~~ transfer or discharge to ascertain whether there has been a violation of the resident's transfer or discharge rights.

(5)(a) A resident may appeal any discharge or appealable transfer to the cabinet.

(b) The resident ~~shall~~must inform the cabinet in writing of his or her intent to appeal within fifteen (15) days from the resident's receipt of notice of the facility's intent to transfer or discharge.

(c) Hearing procedures for appeals are set forth at 900 KAR 2:060.

(6) Penalties. The cabinet shall enforce the provision of this administrative regulation pursuant to KRS 216.555, 216.557 and

216.560.

MARYELLEN B. MYNEAR, Inspector General
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 12, 2015

FILED WITH LRC: March 13, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2015 at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2015, 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 April 30, 2015. 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, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the transfer and discharge requirements for residents in long-term care facilities.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the transfer and discharge requirements for residents in long-term care facilities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216.515(4) which establishes transfer and discharge requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the transfer and discharge requirements for residents in long-term care facilities.

(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 replaces the word "or" with "through" in Section 2(2) to ensure consistency with 42 C.F.R. 483.12(a)(3). Section 2(2) of this administrative regulation pertains to documentation required in long-term care residents' clinical records regarding the reason for transfer or discharge. This amendment also makes technical changes necessary for compliance with the administrative regulation drafting requirements under KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: This amendment corrects a typographical error under Section 2(2) of this administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing long-term care resident transfer and discharge requirements.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by establishing long-term care resident transfer and discharge requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 465 long-term care facilities.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment corrects a typographical error under Section 2(2) of 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): Long-term care facilities will not incur any additional expense.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment corrects a typographical error under Section 2(2) of this administrative regulation.

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

(a) Initially: There will be no additional cost to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to implement this administrative regulation on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of this administrative regulation is from agency and state general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation does not require an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities who elect to be 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? This administrative regulation establishes the transfer and discharge requirements for residents in long-term care facilities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216.515(4) establishes the transfer and discharge requirements for residents in long-term care facilities.

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 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 amendment will not generate additional revenue.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to implement this administrative regulation.

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

Revenues (+/-):

VOLUME 41, NUMBER 10 – APRIL 1, 2015

Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

- 1. Federal statute or regulation constituting the federal mandate. 42 C.F.R. 483.12
- 2. State compliance standards. KRS 216.515(4) establishes transfer and discharge requirements for residents of long-term care facilities.
- 3. Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 483.12 establishes the admission, transfer, and discharge rights of residents in long-term care facilities certified in accordance with 42 C.F.R Part 483. 900 KAR 2:050 establishes standards for long-term care facilities that are consistent with 42 C.F.R. 483.12.
- 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 requirements than those required by federal mandate.
- 5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

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. This administrative regulation establishes provisions related to Medicaid Program[the] coverage of organ transplants for Medicaid recipients and related to Department for Medicaid Services' reimbursement regarding organ transplants provided to Medicaid recipients who are not enrolled with a managed care organization.

- 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. 438.114(a).
- (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) "Medical necessity" or "medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
- (7) "Nonemergency" means that a condition or situation does not require an emergency service pursuant to 42 C.F.R. 438.114(a).
- (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 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 criteria established in this section. (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.
 - (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:
 - (a) 907 KAR 10:825 through September 30, 2015; or
 - (b) 907 KAR 10:835 effective October 1, 2015; or
 - (2) Physician to a recipient who is not an enrollee, the department shall reimburse in accordance with 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.

LISA LEE, Commissioner
AUDREY TAYSE HAYNES, Secretary
APPROVED BY AGENCY: March 10, 2015
FILED WITH LRC: March 13, 2015
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2015 at 9:00 a.m. in the Health Services Auditorium, Suite C, 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 April 14, 2015 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 April 30, 2015. 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 Medicaid program coverage provisions and requirements for organ transplants as well as Department for Medicaid Services (but not managed care organization) reimbursement provisions for organ transplants.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Medicaid program coverage provisions and requirements for organ transplants as well as Department for Medicaid Services (but not managed care organization) reimbursement provisions 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 Medicaid program coverage provisions and requirements for organ transplants as well as Department for Medicaid Services (but not managed care organization) reimbursement provisions 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 Medicaid program coverage provisions and requirements for organ transplants as well as Department for Medicaid Services (but not managed care organization) reimbursement provisions 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 administrative regulation - 907 KAR 10:830 rather than per its diagnosis-related group (DRG) inpatient hospital reimbursement administrative regulation - 907 KAR 10:825.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary as DMS is concurrently repealing 907 KAR 10:825 and promulgating 907 KAR 10:830 which is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by updating a reference to another administrative regulation.

(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 updating a reference to another administrative regulation.

(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 that perform organ transplants. Currently, there are twelve (12) 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): No compliance action is mandated.

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

(a) Initially: DMS anticipates incurring no additional cost as a

result of the amendment.

(b) On a continuing basis: DMS anticipates incurring no additional cost as a result of the amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under 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.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 194A.030(2), 194A.050(1), 205.520(3), and 42 U.S.C. 1396a(a)(30).

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 anticipates incurring no additional cost as a result of the amendment.

(d) How much will it cost to administer this program for subsequent years? DMS anticipates incurring no additional cost as a result of the amendment.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
(Amendment)**

910 KAR 1:140. Appeal procedures[~~Hearing procedures for area agency on aging contractor selection actions~~].

RELATES TO: KRS Chapter 13B, 205.201, 205.204, 205.460-205.465, 42 U.S.C. 3021-30302-2, 45 C.F.R. 74 App A, 1321.35 [42 U.S.C. 3027(a)(5); 45 C.F.R. 1321]

STATUTORY AUTHORITY: KRS 13B.170, 194A.050(1), 42 U.S.C. 3025(b)(5)(c)(i), 3026(f)(2)(B), 42 U.S.C. 3027(a)(5)[+194A.050, 205.204, 42 U.S.C. 3027(a)(5)]

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 3027(a)(5) requires that the department afford an opportunity for a hearing upon request to providers and applicants who provide services under 42 U.S.C. 3021-3030s-2, Title III of the Older Americans Act of 1965, as amended in 2006 (Public Law 109-365). KRS 13B.170 authorizes the cabinet to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 13B. This administrative regulation establishes the department's appeals procedures.

Section 1. Definitions.

(1) "Area Agency on Aging and Independent Living" or "AAAIL" means an area agency on aging as defined by 42 U.S.C. 3002(6).

(2) "Area plan" means a plan submitted by an AAAIL to the department that releases funds under contract for the delivery of service within a planning and service area.

(3) "Assistant secretary" means the Assistant Secretary for Administration on Community Living as defined by 42 U.S.C. 3002(7).

(4) "Cabinet" is defined by KRS 194A.005(1).

(5) "Department" means the Department for Aging and Independent Living.

(6) "Department contracting agency" means an agency contracting directly with the department to administer department programs and services not affiliated with 42 U.S.C. 30021-3030s-2, Title III of the Older Americans Act.

(7) "District" is defined by KRS 205.455(4).

(8) "Local administrative review" means the process for consultation and review of a protest or complaint as defined in subsection (10) of this section.

(9) "Planning and service area" or "PSA" means the multicounty geographical entity in which a given AAAIL is responsible for the delivery of aging services.

(10) "Protest" or "complaint" means a written objection by:

(a) An applicant or provider to a proposed award or award of contract denied by an AAAIL;

(b) A provider to an AAAIL's decision to terminate or not renew its contract to provide services;

(c) An AAAIL to the adverse actions specified in Section 3(1) of

this administrative regulation:

(d) A client of a provider or AAAIL in receipt of or non-receipt of services; or

(e) A client in receipt of or non-receipt of services administered directly by the department.

(11) "Provider" means a person or entity that is awarded a contract from an AAAIL to provide services under an approved area plan.

(12) "Receipt of notice" means the date notice is received.

(13) "RFP file" means those documents that are maintained regarding a particular procurement including:

(a) Request for proposal;

(b) Newspaper advertisement;

(c) Proposal received in response to the RFP;

(d) Correspondence pertaining to the RFP;

(e) Review by the AAAIL;

(f) Rating or scoring and selection documents;

(g) Notice of award; and

(h) Contract.

(14) "Secretary" is defined by KRS 194A.005(2).

Section 2. Local Administrative and State Hearing Procedures for AAAIL Contractor Selection. (1)(a) An AAAIL shall send written notice to an applicant or provider for contractor selection by registered or certified mail within seven (7) calendar days of the AAAIL's decision which:

1. Denies the applicant or provider its request to a proposed award or award of contract; or

2. Terminates or does not renew the provider's contract to provide a service.

(b) The notice shall specify:

1. The reason for the adverse action;

2. That the provider or applicant may file with the AAAIL a written protest or complaint within ten (10) calendar days from receipt of notice; and

3. That failure to file the protest or complaint within the ten (10) calendar days shall constitute a waiver of opportunity for a state administrative hearing.

(2)(a) An AAAIL shall develop and submit written local administrative review procedures for contractor selection to the department for approval.

(b) The procedures shall provide that:

1. The district shall not proceed further with the solicitation, award, or termination during the pendency of a local administrative review for contractor selection, except under a contingency plan approved by the department;

2. A request for a state administrative hearing shall not be accepted until all administrative remedies have been exhausted at the local level;

3. The applicant or provider shall have an opportunity to review pertinent evidence upon which the adverse action was based including competing proposals and scoring sheets;

4. A request for reconsideration of an award shall state in writing why the protest is filed and the factual circumstances and issues to be considered during the review;

5. A local administrative review for the applicant or provider shall include the following:

a. An opportunity for the applicant or provider to appear in person before an individual or a group of three (3) persons who can render an impartial decision;

b. An opportunity to present witnesses and documentary evidence;

c. An opportunity to be represented by counsel;

d. An opportunity to cross-examine witnesses; and

e. A written impartial decision describing:

(i) The reasons for the decision;

(ii) The evidence on which the decision is based; and

(iii) A statement explaining the right to request a state administrative hearing if the protest or complaint is not resolved at the local administrative review;

6. An AAAIL shall:

a. Complete a local administrative review for the applicant or provider no later than twenty (20) calendar days after receipt of the

VOLUME 41, NUMBER 10 – APRIL 1, 2015

applicant's or provider's written protest or complaint; and

b. Within seven (7) calendar days of receipt of the protest or complaint, send a written notice to the applicant or provider by certified mail return receipt requested that specifies:

(i) The date, time, and place for the review; and

(ii) A statement that failure to attend the review shall constitute a waiver of opportunity for a state administrative hearing;

7. If the protest or complaint is not resolved and all administrative remedies have been exhausted, the AAAIL shall send a written response by certified mail return receipt requested to the applicant or provider within seven (7) calendar days of finalizing the local administrative review that includes:

a. The AAAIL's findings and determinations on the issues raised in the protest or complaint; and

b. A statement of the right to request a state administrative hearing with the cabinet; and

8. An AAAIL shall, within ten (10) calendar days of finalizing the review, forward a complete copy of the local administrative review and RFP file relating to a particular procurement to the department.

(3) An applicant or provider may request a state administrative hearing in writing to the department on one (1) or more of the following grounds:

(a) The award does not comply with the applicable request for proposal;

(b) The local administrative review does not comply with the approved procedures of the AAAIL; or

(c) Denial by the AAAIL in whole or in a substantial part of an application to provide services or the AAAIL decision to terminate or not renew the contract to provide services is:

1. Arbitrary or capricious;

2. An abuse of discretion;

3. Biased;

4. The result of a conflict of interest;

5. Not based upon substantial evidence; or

6. Not in compliance with the terms of the contract.

(4) The written request for a state administrative hearing by an applicant or provider shall:

(a) Set forth the grounds and their alleged factual basis;

(b) Be mailed to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621;

(c) Be postmarked not later than thirty (30) calendar days from receipt of the AAAIL's local administrative review findings and determinations; and

(d) Be copied and mailed to the AAAIL that provided the local administrative review.

(5) Failure of the applicant or provider to comply with procedures provided in subsection (4) of this section shall constitute a forfeiture of the opportunity for a state administrative hearing, and the request shall be returned to the applicant or provider with a written explanation.

(6) The department may waive its timeliness requirements provided in subsection (4)(c) of this section and shall notify the parties of the reason for the waiver upon:

(a) Receipt of a written request from a party to waive the timeliness requirements and a determination that good cause or exigent circumstances exist; or

(b) Determination that a waiver is in the best interest of the department.

(7) The department may expedite scheduling and notify the parties in writing of the reason upon determination that:

(a) A reduction in the time frame is in the best interest of the department; or

(b) The rights of the parties at the state administrative hearing are not prejudiced by the reduction.

(8)(a) Upon receipt of the applicant's or provider's request for a state administrative hearing, the department shall determine whether the matter is subject to review on the grounds specified in subsection (3) of this section.

(b) If the matter is not specific to subsection (3) of this section, the department shall inform the applicant or provider in writing by certified mail return receipt requested, with a copy to the AAAIL, within ten (10) calendar days of receipt of the request.

(c) If the matter is specific to subsection (3) of this section, the department shall submit the applicant's or provider's request to the cabinet's Administrative Hearings Branch within three (3) calendar days of its decision.

(9) The procedures for a state administrative hearing shall be in accordance with KRS Chapter 13B.

(10) The final decision of the secretary shall be based on the record of the hearing and may direct that appropriate action be taken including:

(a) Affirming the action of the AAAIL;

(b) Directing that the award be made to the next most advantageous proposal, taking into consideration price and the evaluation factors set forth in the RFP;

(c) Requiring the AAAIL to re-advertise its RFP; or

(d) Reversing the decision and awarding the contract to the appellant.

(11) The department may approve a contingency plan for delivery of services while the AAAIL takes action to conform to the decision.

(12) If the applicant or provider, AAAIL, department, and other interested parties negotiate a written agreement that resolves the issue which led to the request for a hearing, the department may terminate a formal hearing.

(13) Pursuant to KRS 13B.140(1), an applicant or provider may appeal a final decision to the circuit court within thirty (30) days after the final order of the secretary is mailed or delivered by personal service to the applicant or provider.

Section 3. Hearing Procedures for an AAAIL. (1) The department shall provide an opportunity for a state administrative hearing to an AAAIL if the department proposes the following adverse actions:

(a) Disapproves the AAAIL's area plan or plan amendment as specified in 45 C.F.R. 1321.35(a)(2), except as set forth in 45 C.F.R. 74, App A;

(b) Withdraws the AAAIL's designation as provided in 45 C.F.R. 1321.35(a) or initiates an action outlined in 42 U.S.C. 3025(b)(5)(C)(i);

(c) Denies an application for designation as a planning and service area under 45 C.F.R. 1321.29(b); or

(d) Denies or reduces the AAAIL's payment pursuant to 42 U.S.C. 3026(f)(2)(B).

(2)(a) The department shall send a written notice to the AAAIL by registered or certified mail within seven (7) calendar days of determination of the adverse action.

(b) The notice shall specify:

1. The reasons for the adverse action;

2. A statement of the right to request a state administrative hearing with the cabinet within ten (10) calendar days from receipt of notice; and

3. That failure to file the request within the ten (10) calendar days constitutes a waiver of opportunity for a state administrative hearing.

(3) An AAAIL's written request for a state administrative hearing shall:

(a) Specify the reasons for disputing the department action; and

(b) Be mailed to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621.

(4)(a) Upon receipt of the AAAIL's written request, the department shall determine if the AAAIL's request is subject to review according to the adverse actions outlined in subsection (1) of this section.

(b) If the matter is not applicable to subsection (1) of this section, the department shall inform the AAAIL in writing within ten (10) calendar days of receipt of the request.

(c) If the matter is specific to subsection (1) of this section, the department shall submit the AAAIL's request to the cabinet's administrative hearings branch within three (3) calendar days of its decision.

(5) The procedures for a state administrative hearing shall be in accordance with KRS Chapter 13B.

(6) Final decision shall be rendered by the secretary.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(7) An AAAIL may appeal a final decision to the circuit court within thirty (30) days after the final order of the cabinet is mailed or delivered by personal service to the AAAIL pursuant to KRS 13B.140(1).

(8) If the applicant or provider, AAAIL, department, and other interested parties negotiate a written agreement that resolves the issue which led to the request for a hearing, the department may terminate a formal hearing.

(9) After due process is provided, an AAAIL may bring an appeal to the Assistant Secretary of the Administration for Community Living pursuant to 42 U.S.C. 3025(5)(c)(iii).

Section 4. Hearing Procedures for a Department Contracting Agency. An opportunity for a state administrative hearing for a department contracting agency shall be in accordance with KRS Chapter 13B.

Section 5. Hearing Procedures for a Provider's Client or Applicant Services. (1) A provider shall:

(a) Have written procedures for filing a grievance approved by the AAAIL for a provider's client or applicant; and

(b) Ensure the client or applicant is notified of the provider's policies.

(2) A client or applicant for services may request an administrative review with the AAAIL to resolve the complaint.

(3) The AAAIL shall:

(a) Conduct and complete a local administrative review with the client or applicant no later than twenty (20) calendar days after receipt of the client's or applicant's written protest or complaint; and

(b) Notify the client or applicant within three (3) calendar days of receipt of the client's or applicant's protest or complaint that specifies:

1. The date, time, and place for a local administrative review; and

2. Failure to participate in the review shall constitute a waiver of opportunity for a state administrative hearing.

(4) Within three (3) calendar days of its findings and determinations of the written protest or complaint, the AAAIL shall:

(a) Submit a copy of the results of the local grievance to the DAII; and

(b) Send a written response of the review to the client:

1. By certified mail return receipt requested;

2. Specifying its findings and determinations of the issues raised in the protest or complaint; and

3. With a statement of the right to a CHFS administrative hearing if the protest or complaint is not resolved.

(5) A written request for a state administrative hearing shall:

(a) Set forth the grounds for the protest or complaint;

(b) Be mailed to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621; and

(c) Be postmarked no later than thirty (30) calendar days from receipt of the local administrative review findings and determinations.

(6) Upon receipt of the client's or applicant's request for a state administrative hearing, the department shall submit the client's or applicant's request to the cabinet's administrative hearings branch within three (3) calendar days.

(7) The procedures for a state administrative hearing shall be in accordance with KRS Chapter 13B.

(8) Final decision shall be rendered by the secretary.

(9) If the applicant or provider, AAAIL, department, and other interested parties negotiate a written agreement that resolves the issue which led to the request for a hearing, the department may terminate a formal hearing.

(10) A client or applicant may appeal a final decision to the circuit court within thirty (30) days after the final order of the cabinet is mailed or delivered by personal service to the client pursuant to KRS 13B.140(1).

Section 6. Hearing Procedures for a Department Contracting Agency's Applicant or Client. (1) A department contracting agency shall:

(a) Have written grievance procedures for a client or applicant; and

(b) Ensure the client or applicant is notified of the contracting agency's grievance policies.

(2) A contracting agency's client or applicant for services may request a state administrative hearing with the cabinet if the protest or complaint is not resolved at the contracting agency's level.

(3) The department contracting agency shall:

(a) Submit a copy of the results of the administrative review with the client or applicant to the department; and

(b) Send a written response of the review to the client:

1. By certified mail return receipt requested;

2. Specifying its findings and determinations of the issues raised in the protest or complaint; and

3. With a statement of the right to a state administrative hearing if the protest or complaint is not resolved.

(4) A department contracting agency's client or applicant shall be subject to the hearing procedures outlined in Section 5(7) through (10) of this administrative regulation.

(5) If the applicant or provider, AAAIL, department, and other interested parties negotiate a written agreement that resolves the issue which led to the request for a hearing, the department may terminate a formal hearing.

(6) A contracting agency's client or applicant may appeal a final decision to the circuit court within thirty (30) days after the final order of the cabinet is mailed or delivered by personal service to the client pursuant to KRS 13B.140(1). [42 U.S.C. 3027(a)(5) requires that the Office of Aging Services afford an opportunity for a hearing upon request to providers and applicants to provide services under Title III of the Older Americans Act of 1965, as amended. Accordingly, it is the Office of Aging Services policy to provide an opportunity for a hearing to any applicant to provide services under Title III whose application to provide services under an area plan is denied or any service provider funded under Title III whose contract is terminated or not renewed, except as set forth in 45 C.F.R. Part 74, Subpart M. This administrative regulation establishes procedures to provide a full and fair opportunity to resolve any complaints or protests that may arise in contractor selection actions by area agencies on aging under Title III and to create a complete, clear and accurate record for the formation of decisions regarding those selection actions.

Section 1. Definitions:

(1) "AAA" means the area agency on aging under each area development district.

(2) "Applicant" means a person or entity making application to an area agency to provide services under an approved area plan.

(3) "Area plan" means a plan submitted by an area agency on aging and approved by the Executive Director, Office of Aging Services, which enables the area agency to administer activities under Title III.

(4) "Burden of proof" means the duty of going forward, i.e., of producing evidence of a particular matter or fact in issue and the burden of persuasion that a particular matter or fact is true.

(5) "Days" means calendar days, unless specified.

(6) "Executive director" means Executive Director of the Office of Aging Services, Cabinet for Health Services.

(7) "Hearing officer" means the person selected by the Executive Director of the Office of Aging Services, to conduct a hearing and to submit a written report based on that hearing to the executive director.

(8) "Local administrative review" means the procedure of an area agency for consultation and review with an applicant or provider.

(9) "Office" means the Office of Aging Services, Cabinet for Health Services.

(10) "Party" means an area agency, an applicant or provider who has requested a hearing, the person or entity who submitted the proposals in response to the request for proposal (RFP), and a person or entity that is admitted into the proceedings and designated as participant by the hearing officer.

(11) "Protest" or "complaint" means a written objection by an applicant or provider to a proposed award or the award of a contract, or a written objection by a provider to a decision to

VOLUME 41, NUMBER 10 – APRIL 1, 2015

terminate or not renew its contract to provide services.

(12) "Provider" means a person or entity that is awarded a contract from an area agency on aging to provide services under an approved area plan.

(13) "RFP file" means those documents that are maintained regarding a particular procurement. These documents shall include:

- (a) The request for proposal;
- (b) Advertisements as published in the newspaper;
- (c) Each proposal received in response to the RFP;
- (d) All correspondence pertaining to the RFP;
- (e) The review by the AAA;
- (f) Rating or scoring and selection documents;
- (g) Notice of award; and
- (h) The contract.

(14) "Title III" means Title III of the Older Americans Act of 1965, as amended, and implementing federal regulations and directives.

~~Section 2. Procedures for Local Review. (1) Written notice shall be sent by registered or certified mail within seven (7) days of a decision made by an AAA which denies an applicant its request to provide a service or which terminates a provider's contract to provide a service. The notice shall specify:~~

- ~~(a) The reason for the adverse action;~~
- ~~(b) That the provider or applicant has ten (10) days from receipt of notice to file a written complaint with the AAA; and~~
- ~~(c) That failure to file a complaint in a timely manner shall constitute a waiver of his opportunity for a hearing at the state agency level.~~

~~(2) Each AAA shall develop and set forth in writing office approved fair and adequate local administrative review procedures. These procedures shall:~~

~~(a) Provide that the AAA shall not proceed further with the solicitation, award or termination involved during the pendency of the local administrative review, except under a contingency plan approved by the office;~~

~~(b) Provide that a request for a state agency review shall not be accepted until all administrative remedies have been exhausted at the local level;~~

~~(c) Provide the protesting applicant or provider an opportunity to review pertinent evidence upon which the adverse action was based including:~~

- ~~1. Competing proposals and scoring sheets;~~
- ~~2. Requesting reconsideration of an award; and~~
- ~~3. Stating in writing why the protest is filed and the factual circumstances and issues to be considered during the review.~~

~~(d) Provide that the local administrative review shall include the following:~~

- ~~1. An opportunity to appear in person before an individual or a group of three (3) persons who can render an impartial decision;~~
- ~~2. An opportunity to present witnesses and documentary evidence;~~
- ~~3. An opportunity to be represented by counsel;~~
- ~~4. An opportunity to cross-examine witnesses; and~~
- ~~5. A written impartial decision which sets forth:
 - ~~a. The reasons for the decision;~~
 - ~~b. The evidence on which decision is based; and~~
 - ~~c. Statement explaining the right to request a state level hearing.~~~~

~~(e) Provide that the AAA conduct and complete the local administrative review not later than twenty (20) days after receipt of the written protest and:~~

- ~~1. Respond in writing by certified mail return receipt requested to the applicant or provider its findings and determinations on the issues raised in the complaint;~~
- ~~2. Provide notice to the applicant or provider of the right to request a hearing with the office; and~~
- ~~3. Forward a copy of the local administrative review to the office.~~

~~(f) Provide that subcontractors of an AAA and applicants to be subcontractors shall be:~~

- ~~1. Provided notice of an afforded an opportunity for a hearing~~

by the AAA; and

~~2. Provided an opportunity for appeal to the state level for review of the transcript.~~

~~Section 3. Procedures for State level Hearing. (1) Requests and grounds for a hearing.~~

~~(a) If the protest is not resolved by the local administrative review the applicant or provider may request in writing a hearing at the state level on one (1) or more of the following grounds:~~

~~1. There is reason to claim that the award does not comply with the applicable request for proposal;~~

~~2. There is reason to claim that the local administrative review does not comply with the approved procedures of the AAA;~~

~~3. There is a reason to claim that denial by the AAA in whole or in a substantial part of an application to provide services on an action or the part of the AAA concerning termination or nonrenewal of a contract to provide services is:~~

- ~~a. Arbitrary;~~
- ~~b. Capricious;~~
- ~~c. An abuse of discretion;~~
- ~~d. Biased;~~
- ~~e. The result of a conflict of interest;~~
- ~~f. Not based upon substantial evidence; or~~
- ~~g. Does not comply with the terms of the contract or federal or state law, statute or regulation.~~

~~(b) The written request for a hearing by an applicant or provider shall set forth the grounds and their alleged factual basis, and shall be mailed to the Executive Director, Office of Aging Services, 275 East Main Street, Frankfort, Kentucky 40621, postmarked not later than ten (10) days from receipt of the local administrative review findings and determinations. A copy of the written request shall be mailed to the appropriate AAA.~~

~~(c) Upon receipt of the copy of the request the AAA shall send the following to the office for the hearing officer:~~

- ~~1. A complete copy of the local administrative review.~~
- ~~2. A complete copy of the request for proposal file relating to a particular procurement.~~

~~(2) Failure of the applicant or provider to comply with procedures shall constitute a forfeiture of the opportunity for a state level hearing. The request shall be returned by the executive director with a written explanation. The executive director may waive the timeliness requirements and shall notify the parties of the reason for the waiver upon:~~

~~(a) Receipt of a written request of a party and a determination that good cause or exigent circumstances exist; or~~

~~(b) Determination that waiver is in the best interest of the aging program.~~

~~(3) Each hearing shall be conducted within twenty (20) days of the date the executive director receives a request. The hearing officer shall:~~

~~(a) Notify the parties by mail of the date, time and location of the hearing;~~

~~(b) Provide each party with a copy of the request; and~~

~~(c) May grant an extension or continuance if:~~

~~1. He receives a written request by a party with good cause shown to reschedule; and~~

~~2. That extension or continuance shall not delay service delivery.~~

~~(4) The executive director may expedite the scheduling of events and notify the parties of the reason upon written determination that:~~

~~(a) A reduction in the time frames is in the best interest of the aging program; and~~

~~(b) The rights of the parties at the state level hearing are not prejudiced.~~

~~(5) The decision of the executive director regarding the qualifications of the hearing officer shall be final.~~

~~(a) The hearing officer shall be disqualified if he has a:~~

- ~~1. Personal bias;~~
- ~~2. Prejudice with respect to a party; or~~
- ~~3. Conflict of interest in the matter pending;~~

~~(b) A party may suggest in writing to the executive director grounds for disqualification, prior to the date set for the hearing.~~

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(6) The parties shall have an opportunity to present their sides of the matter at their expense and subject to the rulings of the hearing officer in a full and fair hearing. Each party has the right to:

- (a) Appear with legal counsel or other representatives;
- (b) Review pertinent evidence on which the decision of the area agency was based;
- (c) Present evidence, both testimonial and documentary;
- (d) Rebut adverse evidence, through cross-examination and other appropriate means, including the presentation of evidence;
- (e) Submit a brief or memorandum setting forth the position of the party and substantiation for it to the hearing officer;
- (f) Present oral argument;
- (g) Have the decision based only upon the evidence introduced into the record of the hearing; and
- (h) Have access to the complete record which consists of the following:

- 1. The request for hearing;
 - 2. A copy of the local administrative review;
 - 3. A copy of the RFP file;
 - 4. A transcript of oral testimony and arguments, if a transcript is made;
 - 5. Documentary evidence and papers filed with the request, and in the proceedings; and
 - 6. Pre- and posthearing motions including written exceptions.
- (7) The hearing officer shall rule on the admissibility of both testimonial and documentary evidence.

(a) The hearing officer shall not be bound by courtroom rules of evidence and irrelevant, immaterial, and unduly repetitious or cumulative evidence shall be excluded.

(b) Notice shall be taken of judicially cognizable facts, decisions of courts or other tribunals, and generally recognized technical and scientific facts. Each party shall be afforded an opportunity to contest these matters.

(c) Part of the evidence may be received in the form of a deposition, affidavit or stipulation if the interest of the parties will not be substantially prejudiced.

(d) The hearing officer shall arrange for the separation of witnesses and may exclude a prospective witness or spectator to ensure an orderly and fair proceeding.

(e) Upon notice to the parties, the hearing officer may seek a more definite and detailed statement of the issue.

(8) The proceedings in a hearing shall be taped or recorded at a location provided by the executive director. The executive director shall provide a copy of the transcript to a party upon:

- (a) Written request; and
- (b) Payment of a reasonable fee which shall comply with the Kentucky Open Records law.

(9) When a party fails to appear at a hearing, the hearing officer shall notify the party in writing that a default shall be entered. The defaulting party shall have no more than five (5) days in which to seek a new hearing date which shall be granted only for good cause shown. Upon default, the hearing officer shall:

- (a) Render a decision based on available evidence; or
- (b) Dismiss the case with prejudice to the defaulting party.

(10) The provider or applicant may submit a written withdrawal of a request for a hearing which shall constitute a waiver of an opportunity for a hearing at the state level on the matters and issues involved in the original request.

(11) The hearing shall be conducted in an orderly but informal manner.

- (a) The hearing officer shall:
 - 1. Preside over all proceedings;
 - 2. Rule on preliminary motions; and
 - 3. Determine the order of presentation of evidence and other procedural matters.

(b) The parties shall in advance of the hearing indicate the names of the witnesses and the expected duration of their testimony.

(c) At the conclusion of the hearing the parties may submit to the hearing officer:

- 1. Proposed findings of fact; and
- 2. Written exceptions to proposed findings of fact.

(d) The hearing officer shall rule on each proposed finding and

on all motions and objections.

(e) The burden of proof shall be with the applicant or provider who requested the hearing.

(f) The standard of proof shall be by a preponderance of evidence.

(12) Within ten (10) days of the conclusion of the hearing, the hearing officer shall forward to the executive director a complete record of the hearing and a written report based on the record. The executive director may extend the time for filing this report upon request of the hearing officer and with good cause shown. The report shall contain:

- (a) Separate findings of fact based on the record;
- (b) Conclusions based on the findings of fact; and
- (c) Recommendations supported by the conclusions.

(13) Within five (5) days of receipt of the hearing officers report, a party may submit written exceptions to the executive director, but a party shall not be entitled to a further hearing on a matter or issue which was the subject of the hearing.

(14) Upon review of the report of the hearing officer, and timely filed exceptions, the executive director may remand the case back to the hearing officer for proceedings to assist him in making a decision, which shall:

- (a) Be rendered in writing within twelve (12) days of receipt of the final report of the hearing officer;
- (b) Approve, disapprove or approve with deletions, additions or modifications each finding of fact, conclusion and recommendation in the report.

(15) The decision of the executive director shall be based on the record of the hearing and may direct appropriate action be taken including:

- (a) Affirming the action of the AAA;
- (b) Directing the award be made to the next most advantageous proposal, taken into consideration price, and the evaluation factors set forth in the RFP; or
- (c) Requiring the AAA to readvertise its RFP.

(16) The executive director may authorize the executive director to approve a contingency plan for delivery of services while the AAA takes action to conform to the decision.

(17) The decision of the executive director shall constitute the final administrative review of the matter and issues which were the subject of the hearing. A copy of the decision shall be:

- (a) Mailed or hand-delivered to the parties; and
- (b) Maintained by the executive director with the complete record of the hearing.]

DEBORAH S. ANDERSON, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 10, 2015
FILED WITH LRC: March 12, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2015, at 9:00 a.m. in the Cabinet for Health and Family Services Auditorium, Suite B, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 2015, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who 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 April 30, 2015. Send written notification of intent to be heard at the public hearing or written comments 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, email tricia.orme@ky.gov.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Phyllis Sosa

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the administrative hearing process for providers and clients.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to afford an opportunity for a hearing upon request to providers and applicants who provide services under 42 U.S.C. 3021-3030s-2, Title III of the Older Americans Act of 1965 as amended in 2006 (public Law 19-365) and under KRS 13B.170 this administrative regulation establishes the departments appeals procedures.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 13B, providing local resolution to a conflict or complaint when possible and providing the right to an administrative hearing, regardless of the local resolution.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the process for the local administrative and state hearing procedures for the AAAIL's.

(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 brings this administrative regulation into compliance with the provisions of Chapter 13B, allowing for the local resolution of conflicts or complaints and the right for an administrative hearing at the state level.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to comply with the provisions of Chapter 13B.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms with the authorizing statute KRS 13B which requires the process for the local administrative and state hearing procedures.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides procedures for the local administrative process and the state hearing process to resolve conflicts and complaints by providers, clients and applicants.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are fifteen (15) AAAIL's under contract with the department, thirteen (13) Community Mental Health Centers and subcontractors of the AAAIL's that are required to follow the provisions of this administrative regulation and over 20,000 clients or potential clients of services.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The provider agencies will have to establish policy and procedure to carry out the local resolution of conflicts and complaints and to inform the affected individuals or entities of their right to submit a written request for an administrative hearing at the state level. The providers will also be required to conduct an administrative process to hear the request for resolution or appeal.

(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 anticipated for the providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The individuals will have the opportunity to resolve issues, conflicts, and complaints at the local level. If that is not satisfactory, they may request a hearing at the state level, giving them an opportunity to voice concerns and resolve issues to their satisfaction.

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

(a) Initially: There is no anticipated additional cost initially.

(b) On a continuing basis: There is no anticipated additional cost on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: All costs will be Federal administrative costs under the Older Americans Act of 1965, as amended.

(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 the fees or funding is necessary to implement 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 or require fees.

(9) TIERING: Is tiering applied? Tiering is not applied since policy is administered the same statewide.

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 AAAIL's, Department for Aging and Independent Living and the Division of Administrative Hearings are affected 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 Chapter 13B, 42 U.S.C. 3021-3030S-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? The amendment will not generate additional revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment will not generate additional revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? There is no additional cost to administer the programs as a result of this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no additional cost to administer the program as a result of this regulation 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 Aging and Independent Living Division of Quality Living (Amendment)

910 KAR 1:170. Older Americans Act supportive services for the elderly.

RELATES TO: KRS 205.201, 205.203, 205.455-205.465, 42 U.S.C. 3001 et seq.

STATUTORY AUTHORITY: KRS 194A.050, 205.204(2)

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 194A.050 authorizes the Cabinet for Health and Family Services to

VOLUME 41, NUMBER 10 – APRIL 1, 2015

adopt administrative regulations as necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds. KRS 205.204 designates the Cabinet for Health and Family Services as the state agency to administer the Older Americans Act in Kentucky. The function of this administrative regulation is to set forth the standards of operation for the Supportive Services Program in Kentucky, in compliance with the statutory requirement of KRS 13A.221 that requires a separate administrative regulation for each topic of general subject matter.

Section 1. Definitions. (1) "Access" means information and referral services, outreach service and transportation service.

(2) ~~"Adequate proportion" means no less than sixty five (65) percent of the federal funding allocated by the Older Americans Act of 1965, as amended, excluding administrative funds.~~

(3) ~~"Agency" means the area agency on aging, an entity designated by the state to administer, at the local level, the programs funded by the Older Americans Act of 1965, as amended.~~

(3) "Assessment" means the collection and evaluation of information about a person's situation and functioning to determine the applicant or recipient service level and development of a plan of care utilizing a holistic, person centered approach by a qualified independent care coordinator (ICC).

(4) "Assisted transportation" means a one-way trip to accompany an eligible person who requires assistance for safety or protection to or from his physician, dentist, or other necessary service.

(5) "Case management" means a process, coordinated by a case manager, for linking a client to appropriate, comprehensive, and timely home or community based services as identified in the plan of care by:

- (a) Planning;
- (b) Referring;
- (c) Monitoring;
- (d) Advocating;
- (e) Following the timeline of the assessment agency to obtain:
 1. Service level; and
 2. Development of the plan of care.

(6) "Case management supervisor" means an individual meeting the requirements of Section 5(1) and (2) of this administrative regulation and who shall have four (4) years or more experience as a case manager.

(7) "Case manager" means the individual employee responsible for case management including:

- (a) Coordinating services and supports from all agencies involved in providing services required by the plan of care;
- (b) Ensuring that all service providers have a working knowledge of the plan of care; and
- (c) Ensuring that services are delivered as required.

(8) "Community" means a county designated as either urban or rural in accordance with the most current percentage of population listing from the U.S. Census Bureau.

(9) "District" is defined by KRS 205.455(4).

(10) "Educational or experiential equivalent" means:

- (a) Two (2) semesters totaling at least twenty-four (24) hours of course work; and
- (b) At least 400 documented hours of experience assisting aging or disabled individuals through:

1. Practicum placement;
2. Clinicals; or
3. Volunteerism.

(11) "Home modification" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility, including emergency summons systems.

(12) "Independent care coordinator" or "ICC" means the individual that completes the initial assessment, plan of care, and reassessment.

(13) "Information and assistance" means a service for individuals that provides current information about services available within the community.

(14) ~~(4) "In-home services" means the performance of heavy~~

~~housecleaning, yard tasks, and other activities needed to assist a functionally impaired elderly person remain in his own home.~~

~~(15) [following supportive services:~~

- ~~(a) Homemaker and home health aide;~~
- ~~(b) Visiting and telephone reassurance;~~
- ~~(c) Chore maintenance;~~
- ~~(d) In-home respite; and~~
- ~~(e) Home repair.~~

~~(5) "Legal assistance" means:~~

- ~~(a) Legal advice and representation by an attorney; or~~
- ~~(b) Counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney[; or~~
- ~~(c) Counseling or representation by a nonlawyer, where permitted by law, to older individuals with economic or social needs].~~

~~(16) "Multipurpose senior center" is defined by 42 U.S.C. 3002(36).~~

~~(17) "Natural supports" means a non-paid person or community resource who can provide, or has historically provided, assistance to the consumer or, due to the familial relationship, would be expected to provide assistance when capable.~~

~~(18) [(6)] "OAA" means the Older Americans Act of 1965, as amended.~~

~~(19) "Outreach" means interventions with individuals initiated by an agency or organization for the purpose of identifying potential clients or their caregivers and encouraging their use of existing services and benefits.~~

~~(20) "Planning and service area" is defined by 42 U.S.C.3002(42).~~

~~(21) "Rural" means a community with less than 50,000 population as designated by the most current listing from the U.S. Census Bureau.~~

~~(22) "Satellite senior center" means a facility that is used to provide services specified in Section 10(3) of this administrative regulation if a multipurpose senior center is not available to provide the services.~~

~~(23) "Senior center services" means the provision of activities that foster the health or social well-being of individuals through social interaction and leisure.~~

~~(24) "Service level" means the minimum contact required through face-to-face visits and telephone calls by the case manager or social service assistant.~~

~~(25) "Social service assistant" means an individual who:~~

- ~~(a) Has at least a high school diploma or equivalent;~~
- ~~(b) Works directly under the direction of the case manager supervisor;~~
- ~~(c) Assists the case manager with record keeping, filing, data entry, and phone calls;~~
- ~~(d) Helps determine what type of assistance a client needs;~~
- ~~(e) Assists the client in getting services to carry out the plan of care;~~

~~(f) Coordinates services provided to the client;~~

~~(g) Assists a client in applying for other services or benefits for which he may qualify; and~~

~~(h) Monitors a client to ensure services are provided appropriately.~~

~~(26) [(7) "Office" means the Office of Aging Services, Cabinet for Health Services.~~

~~(8) "Supportive service provider" means an entity that provides supportive services funded by the OAA[;] under an approved area plan.~~

~~(27) "Telephone reassurance" means providing a wellness check by phone with the agreement of the individual.~~

~~(28) "Transportation" means transporting an individual from one (1) location to another.~~

~~(29) [(9)] "Unit of service" means one (1):~~

- ~~(a) [One-half (-1/2)] Hour of direct contact with or on behalf of the participant;~~
- ~~(b) [One (-1)] Contact for the information and referral service;~~
- ~~(c) [One (-1)] Call for the telephone reassurance service;~~
- ~~(d) [One (-1) mile for the transportation service; and~~
- ~~(e) For federal reporting purposes, the following:~~
 - ~~1. One (-1) visit for the friendly visiting service;~~

VOLUME 41, NUMBER 10 – APRIL 1, 2015

- ~~2. One (1) session for the health promotion and recreation services;~~
 - ~~3. One (1) Contact for the outreach service;~~
 - ~~(e) and~~
 - ~~4. One (1) One-way trip for the transportation service; and~~
 - ~~(f) Contact for senior center service.~~
- ~~(30) "Urban" means a community with 50,000 or more population as designated by the most current listing from the U.S. Census Bureau.~~

Section 2. Eligibility. (1) Participants receiving supportive services funded by the OAA shall be sixty (60) years of age or older.

(2) Agencies shall utilize the DAIL-GA-01 Priority Screening Tool[establish systems] for prioritizing applicants to ensure services are targeted to those in greatest need.

(3) Means tests shall not be allowed to determine eligibility.

Section 3. Service Provider Responsibilities. (1) A service provider contracting with a district to provide supportive services supported in whole or in part from funds received from the cabinet shall:

(a) Provide services[shall be provided] in accordance with the approved agency area plan which shall ensure the provision of supportive services throughout the geographic area covered under its plan;

(b) Review the provision of supportive services to assure safety and consistency;

(c) Treat the client in a respectful and dignified manner and involve the client and caregiver in the delivery of services;

(d) Permit staff of the cabinet and the district to monitor and evaluate services provided;

(e) Assure that each paid or voluntary staff member meets qualification and training standards established for each specific service by the department;

(f) Maintain a written job description for each paid staff and volunteer position involved in direct service delivery;

(g) Develop and maintain written personnel policies and a wage scale for each job classification;

(h) Designate a supervisor to assure that staff providing in-home services are provided supervision;

(i) Monitor, evaluate, and conduct satisfaction surveys; and

(j) Maintain a record for each client including:

1. Participant name;

2. Address;

3. Phone number;

4. Emergency contact information;

5. Request for services;

6. Verification of eligibility;

7. Services provided; and

8. Monitoring of services provided.

(2) Staff of the provider agency shall not:

(a) Accept personal gratuities from participants or vendors; or

(b) Be involved in any client financial transaction without prior approval from the contracting agency.

(3) [an adequate proportion is planned and expended to fund access, in-home and legal assistance services.

(2) Eligibility of each participant shall be established and personnel who approve services shall be designated.

(3) Volunteers and paid staff with the same written job description and responsibilities shall meet comparable requirements for training and skills.

(4) Services shall be provided under the supervision of qualified personnel.

(5) Services shall be accessible to participants by telephone, home visit, center location or person-to-person contact.

(6) Center services shall be available on a regularly scheduled basis. Major permanent changes shall have prior approval of the agency and be publicized to participants.

(7) Staff training shall be as follows:

(a) New staff shall receive an orientation;

(b) New staff shall be trained prior to assuming responsibilities or shall receive on-the-job training from qualified agency staff;

(c) Existing staff shall receive training on job-related topics at a minimum of once per year.

(8) Staff shall not accept personal gratuities from participants or vendors.

(9) Staff shall not, without prior approval of the supervisor, pay bills or cash checks for participants.

(10) Designated staff, who are trained and skilled in assessing and dealing with the needs of the elderly and in the delivery of each service, shall be provided.

(11) There shall be a staff person, qualified by training and experience, responsible for administering each service and supervising assigned staff.

(12) The following activities shall not be reported as units of service except where required for a specific service:

(a) Review, update or maintenance of resource or agency files;

(b) Travel time incurred in the delivery of services;

(c) Training sessions or staff meetings; or

(d) Project management.

(13) A record documenting participant identification data, requests for service, eligibility for services provided and follow-up shall be maintained for each participant.

(14) A procedure shall be utilized annually for the evaluation of unmet need, the results to be made available to the agency.

(4) [(15)] The legal assistance provider shall:

(a) Specify how it intends to target services for the needs of low-income minority individuals;

(b) Attempt to provide services to the population of low-income minority individuals in at least the same proportion as the population bears to the older population as a whole;

(c) Provide individual legal casework, legal referral, and legal education to the elderly and training for attorneys in areas of law relevant to the elderly;

(d) Contact institutionalized elderly and inform and educate these individuals about the legal assistance services available;

(e) Specify how it intends to coordinate its efforts with the efforts of the Long-term Care Ombudsman Office;

(f) Meet at least annually with the local ombudsman program;

(g) Submit a written quarterly activities report to the agency, documenting the legal activities and services provided to participants; and

(h) Not divulge [as follows:

1. Aggregate data as requested by the agency shall be provided on the quarterly program performance report, herein incorporated by reference; and

2.] information protected by the attorney-client privilege [shall not be divulged].

Section 4. Support Services. Services funded by the OAA and administered by the area agencies on aging and independent living shall be provided as established in this section [follows:] (1) Except for senior center and access services, the ICC and the individual shall determine the service needs of the individual.

(2) [Advocacy shall be action taken on behalf of an older person or group of older persons to secure rights or benefits. Advocacy services shall:

(a) Include receiving, investigating, and working to resolve disputes or complaints;

(b) Not include services provided by an attorney or person under the supervision of an attorney;

(c) Arrange annual public hearings within each area development district to:

1. Provide public information;

2. Identify areas of concern; and

3. Develop plans to address concerns;

(d) Keep the public informed of available services through other means identified in the area plan; and

(e) Include assessments as to whether or not provided services are reaching the population most in need.

(2) Counseling services shall be either singly or in a group and provided in a private, confidential setting to:

(a) Interview, discuss and actively listen to participants to advise and enable participants and families to resolve problems;

(b) Relieve temporary stress encountered by participants and

VOLUME 41, NUMBER 10 – APRIL 1, 2015

families.

(3) Education services shall:

(a) Provide formal or informal opportunities for individuals or groups to acquire knowledge, experience or skills and increase awareness;

(b) Be presented by persons qualified by education or experience, on topics relevant to participant need and interest as identified through staff and participant input;

(c) Use donated resources for the provision of services if possible; and

(d) Maintain records which include topics, presenters, location and number of participants.

(4) Employment services shall include:

(a) Provision of consultation, job development and other services designed to assist participants in securing paid employment:

1. Information to participants concerning available employment;

2. Counseling which may include advise on taking tests, preparing a resume, attitude during an interview, and how to locate potential employers; and

3. Educating prospective employers;

(b) Referrals to prospective employers;

(c) Transportation assistance to participants involved in job search activities; and

(d) Follow-up activities on participants seeking paid employment.

(5) Friendly visiting services shall be planned visits to socially or geographically isolated participants:

(a) To express interest in his welfare by providing companionship and continuing contact with the community;

(b) Provided by trained staff or trained volunteers who have a staff person identified as supervisor;

(c) With consideration given for participant preference regarding the person providing service, schedule of times for, and length of service; and

(d) Using volunteers to provide the service if possible.

(6) Health promotion services shall develop programs designed to maintain or improve the health and well-being of older persons, including health screening, health promotion and other related activities. Services shall include:

(a) Assisting participants in securing and utilizing the available health services for attaining and maintaining a favorable condition of health;

(b) Education on the need for health care;

(c) Assistance to participants to help them understand health insurance policies; and

(d) Wellness activities like walking programs, exercise programs and other group activities.

(7) Information and assistance[referral] services shall:

(a) Provide information in response to an inquiry regarding opportunities and services available;

(b) Assist in accessing opportunities and services;

(c) Follow-up to determine whether services were received and identified needs were met; and

(d) Utilize current records of appropriate community resources, including local procedures for assessing participant needs and for making referrals to appropriate agencies.

(8) Legal assistance services shall:

(a) Be available for institutionalized older persons and other elderly persons otherwise entitled to legal assistance;

(b) Not be denied because of a person's failure to disclose information about income or resources; and

(c) Assure providers maintain records to include individual client services and group activities, covering topics, presenters, locations and numbers of participants.

(9) Outreach services shall:

(a) Locate or reestablish contact initiated by providers, to identify participants in need of services;

(b) Provide information;

(c) Encourage the use of existing services;

(d) Be provided in the total geographic area served by the agency, in accordance with a plan to identify the elderly and

caregivers in the area, with priority given to a rural, low income minority, limited English speaking, or disabled individual; and

(e) Be provided by a worker with current knowledge of services available to the elderly, caregivers, and individuals with disabilities in accordance with an established procedure for worker assistance to the participant in accessing appropriate services, including follow-up to assure needs have been met.

(5) Senior center services shall provide activities which foster the health or social well-being of an individual through social interaction and the use of leisure time.

(6) Funds shall not constitute more than ten (10) percent of the total OAA Title IIIB allocation and shall be provided:

(a) By staff who are knowledgeable and skilled in the services provided, including a volunteer under the supervision of the center director; and

(b) With consideration for the physical and mental conditions and activity preferences of a participant.

(7) [(10)] Recreation services shall provide activities which foster the health or social well-being of individuals through social interaction and the satisfying use of leisure time:

(a) By a person who is knowledgeable and skilled in the recreational activities provided, including a volunteer under the supervision of the center director; and

(b) With consideration for the physical and mental conditions and activity preferences of the participants.

(11) Telephone reassurance services shall:

(a) Provide regular telephone contact to or from isolated individuals;

(b) Be provided by a staff who is knowledgeable and skilled in the services provided, including a volunteer under the supervision of the center director;

(c) Include a prearranged schedule for contacting the participant;

(d) Maintain a log of calls documenting:

1. Date of the contact;

2. Length of the call;

3. Summary of the contact;

4. Demographics of the participant;

5. Determination of safety and well-being; and

6. Determination of special assistance needed;

(e) Establish a procedure to be implemented in the event of a non-answered call; and

(f) Include the participant's preference regarding frequency of calls.

(8) [1. To determine if they are safe and well;

2. To determine if they require special assistance; or

3. To provide psychological reassurance;

(b) Include a prearranged schedule for contacting the participant, and:

1. A plan of action for each participant to be implemented in the event of a nonanswered call;

2. The participant's preference regarding the person providing service; and

3. A record of calls and length of calls.

(12) Transportation services shall:

(a) Be provided by a trained individual;

(b) Carry older persons to or from community resources to access or receive needed services;

(c) [(b)] Comply with federal, state, and local regulations [to ensure a safe journey from the point of departure to destination]; and

(d) [(e)] Use vehicles safe and accessible to older persons and properly insured to protect the participants in accordance with state laws.

(9) Assisted transportation services shall be provided:

(a) In accordance with subsection (8) of this section;

(b) To a person who requires accompaniment for reasons of safety or protection to or from his physician, dentist, or other necessary services as determined by the ICC.

(10) In-home services shall be provided:

(a) By trained staff; and

(b) As determined by the ICC.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

Section 5. Case Manager Requirements. (1) A case manager and an ICC shall:

(a)1. Possess a bachelor's degree in a health or human services field from an accredited college or university:

a. With one (1) year experience in health or human services; or

b. The educational or experiential equivalent in the field of aging or physical disabilities;

2. Be a currently licensed RN as defined in KRS 314.011(10) who has at least two (2) years of experience as a professional nurse in the field of aging or physical disabilities; or

3. Be a currently licensed LPN as defined in KRS 314.011(10) who:

a. Has at least three (3) years of experience in the field of aging or physical disabilities; and

b. Is supervised by an RN who consults and collaborates on changes to the plan of care;

(b) Be a department certified case manager beginning July 1, 2015; and

(c) Be supervised by a case management supervisor.

(2) A master's degree from an accredited college or university may be substituted for the required experience.

(3) Each client shall be assigned a:

(a) Case manager; or

(b) Social service assistant.

(4) A client shall be assessed initially and reassessed at least annually thereafter by an ICC that possesses a bachelor's degree, a master's degree, or is a licensed registered nurse (RN).

(5) After each assessment or reassessment, the ICC shall determine eligibility and service level based on the DAIL-HC 01, Scoring Service Level of each assessed individual.

(6) If the client is ineligible, the case shall be closed and the reason documented in the case record with notification mailed to the client or caregiver.

(7) The case manager shall:

(a) Be responsible for coordinating, arranging, and documenting those services provided by:

1. Any funding source; or

2. A volunteer;

(b) Make a reasonable effort to secure and utilize informal supports for each client;

(c) Document the reasonable effort in the client's case record;

(d) Monitor each client by conducting a home visit according to the assessed service level and through a telephone contact between home visits. Clients shall be contacted at a minimum as follows:

1. Level 1, a home visit shall be conducted every other month;

2. Level 2, a home visit shall be conducted every four (4) months; or

3. Level 3, a home visit shall be conducted every six (6) months; and

(e) Document in the case record each contact made with a client, as specified in paragraph (d) of this subsection.

(8) A district shall employ an ICC to assess the eligibility and needs for each client.

(9) A client assessed at a Level 1 or a Level 2 shall be assigned a case manager.

(10) A client assessed at a Level 3 shall have a case manager or a social service assistant assigned to assist with meeting their needs.

(11) A client shall receive in-home services in accordance with an individualized plan of care developed through participant directed planning which shall:

(a) Relate to an assessed problem;

(b) Identify goals to be achieved;

(c) Identify a scope, duration, and unit of service required;

(d) Identify a source of service;

(e) Include a plan for reassessment; and

(f) Be signed by the client or client's representative and case manager with a copy provided to the client.

(12) Case management services shall not be provided to an individual on a waiting list.

Section 6. Multipurpose Senior Center Selection. (1) An AAAIL

shall designate a multipurpose senior center within each urban community of the AAAIL's planning and service area.

(2) If only rural communities are within an AAAIL's planning and service area, the AAAIL shall designate at least one (1) multipurpose senior center in the AAAIL's planning and service area.

(3) Selection of a multipurpose senior center location shall be based on:

(a) Demographic information concerning the population of older persons in its service area; and

(b) The advice of public and voluntary agencies serving the elderly.

(4) The AAAIL shall specify designation of a multipurpose senior center within its area plan.

(5) The following factors shall be given consideration in choosing a site for the multipurpose senior center:

(a) Demographic information and projections;

(b) Accessibility to the maximum number of people with particular attention to:

1. Low-income older individuals, including low-income minority older individuals;

2. Older individuals with limited English proficiency;

3. Older individuals residing in rural areas; and

4. The number of older individuals at-risk for institutional placement;

(c) Proximity to other services and facilities;

(d) Convenience to public or private transportation or a location within walking distance for participants;

(e) The absence of structural barriers or difficult terrain; and

(f) The safety and security of participants and staff.

Section 7: Multipurpose Senior Center Specifications. (1) A multipurpose senior center shall:

(a) Provide barrier-free access and movement within the facility pursuant to 45 C.F.R. 85.42 and 85.43;

(b) Be clearly identified with a sign;

(c) Make arrangements:

1. For the security of facility equipment, furniture, and files; and

2. To offer activities at other sites in its service area; and

(d) Be free of physical hazards in accordance with the DAIL-MS-01 Multipurpose Senior Center Site Approval Checklist.

(2) The facility shall be properly maintained and repaired to meet the safety and security of staff and participants.

(3) An existing multipurpose senior center that does not meet the requirements of subsections (1) and (2) of this section shall comply with a corrective action plan administered by the department.

(4) The multipurpose senior center shall have thirty (30) days from receipt of the corrective action plan to comply.

(5) The department may withhold funding if the multipurpose senior center does not comply with the corrective action plan.

Section 8. Multipurpose Senior Center Requirements. (1) Each multipurpose senior center shall have a full time director and paid or volunteer staff to administer the center.

(2) At least one (1) staff person or the director shall be present at the site during hours of operation.

(3) At a minimum, a multipurpose senior center shall be open six (6) hours per day and five (5) days per week.

(4) A multipurpose senior center shall provide the following services:

(a) Nutrition services in accordance with 910 KAR 1:190; and

(b) Support Services including:

1. Transportation;

2. Outreach;

3. Information and assistance; and

4. Other services identified in the planning and service regions area plan.

(5) A multipurpose senior center shall:

(a) Comply with the confidentiality and disclosure of a client as follows:

1. Adhere to the confidentiality and disclosure of client information pursuant to KRS 194A.060 and 5 U.S.C. 552, the

VOLUME 41, NUMBER 10 – APRIL 1, 2015

Federal Freedom of Information Act:

2. Not disclose client information without the informed consent of the person or legal representative, unless the disclosure is required by a court order or for program monitoring authorized by federal, state, or local monitoring agencies; and

3. Not reveal client information that is protected by attorney-client privilege; and

(b) Refer reports of abuse, neglect, or exploitation to the Department for Community Based Services.

Section 9. Satellite Senior Center Selection. (1) The AAAIL shall designate a satellite senior center within the planning and service area of each rural community if:

(a) A multipurpose senior center is not already located in the county; or

(b) Additional satellite senior centers are needed to provide aging programs to seniors of that area.

(2) The AAAIL shall specify designation of a satellite senior center within its area plan.

(3) A satellite senior center shall meet the multipurpose senior center selection requirements of Section 6(2) of this administrative regulation.

Section 10. Satellite Senior Center Requirements. (1) Each satellite senior center shall have a director who is responsible for the administration of the site.

(2) At least one (1) staff person or the director shall be present at the site during hours of operation.

(3) At a minimum, a satellite senior center shall be open for eight (8) nonconsecutive hours per week.

(4) An AAAIL shall organize and advertise activities, services, and schedules of operation in advance.

(5) A satellite senior center shall:

(a) Unless already established in a multipurpose senior center in the same community, provide access services which shall include:

1. Transportation;
2. Outreach; and
3. Information and referral; and

(b) Adhere to the confidentiality requirements of Section 8(4) of this administrative regulation.

(6) A satellite senior center may provide nutrition services in accordance with 910 KAR 1:190.

Section 11. Approval of a Multipurpose and Satellite Senior Center. (1) Supportive or nutrition services shall be funded at a multipurpose and satellite senior center if the center has been approved by the department.

(2) A multipurpose and satellite senior center shall not become operational until an on-site visit by the department has been completed and approval given by the department.

(3) Prior to approval of a multipurpose and satellite senior center, it shall be inspected by the following:

(a) The local health department for compliance with applicable health codes depending on the types of services provided at the site;

(b) The local fire department for compliance with fire and building safety codes; and

(c) An AAAIL inspection using a:

1. DAIL-MSC-01 Multipurpose Senior Center Checklist; or
2. DAIL-SSC-02 Satellite Senior Center Checklist.

Section 12. Altering Multipurpose or Satellite Senior Center. (1) Prior approval shall be obtained from the department by an AAAIL which intends to:

(a) Close or open a new multipurpose or satellite senior center;

(b) Change the location of the multipurpose or satellite senior center;

(c) Change the method of providing services in a manner that affects availability of ongoing services; or

(d) Reduce the level or number of services.

(2) Justification for the change shall include:

(a) The proposed effective date;

(b) The need or reason;

(c) The number of participants affected;

(d) Whether this change is temporary or permanent;

(e) A cost benefit analysis;

(f) For a change made to an existing multipurpose or satellite senior center, whether this facility was altered, renovated, or constructed with Older Americans Act funds and the date work was completed;

(g) Whether the AAAIL advisory council recommended this change;

(h) What provisions are proposed to continue services to the participants; and

(i) For a proposed multipurpose or satellite senior center, costs involved in meeting local fire, health, safety, and sanitation regulations.

(3) A request to open a new multipurpose or satellite senior center shall include copies of completed local health department inspections and a completed:

1. DAIL-MSC-01 Multipurpose Senior Center Checklist; or

2. DAIL-SSC-02 Satellite Senior Center Checklist.

(4) If meal preparation at a new multipurpose or satellite senior center is proposed, the multipurpose or satellite senior center shall notify the:

(a) Department;

(b) Local fire department; and

(c) Local health department.

(5) The department shall review the information submitted and determine if an on-site visit is necessary for approval.

(6) In case of altered multipurpose or satellite senior center operations due to damages caused by fire, flood, storm, high winds, tornados, or other safety issues, the department shall be notified within one (1) business day that emergency alterations are necessary by:

(a) Telephone;

(b) Email; or

(c) Fax.

(7) Prior approval shall be obtained from the department on a conditional basis for emergency circumstances with final approval pending:

(a) Written documentation of the proposed change;

(b) Local fire, health, and safety inspections; and

(c) An on-site inspection by the department if the department determines a visit is necessary for final approval.

(8) The AAAIL shall specify alterations of a multipurpose and satellite senior center within its area plan for department approval.

Section 13. Training and Education. An AAAIL shall implement the following training and education programs for multipurpose and satellite senior center providers of service:

(1) An annual program assessment to identify training needs and develop correlating plans;

(2) An identification and review of resources available to meet training needs;

(3) The development of a comprehensive education and training plan;

(4) A search for additional resources to implement the plan;

(5) The coordination of education programs with private, public, governmental, and educational organizations and institutions; and

(6) A plan to implement staff development initiatives.

Section 14. Monitoring. An AAAIL shall:

(1) Monitor and assess services to determine compliance with contract requirements and an approved area plan; and

(2) Submit written evaluation of its findings to DAIL annually;(13) Provision of the following supportive services shall be governed by 910 KAR 1:180, homecare program for the elderly:

(a) Assessment;

(b) Case management;

(c) Chore;

(d) Escort;

(e) Home health aide;

(f) Homemaker, home management and homemaker, personal care;

VOLUME 41, NUMBER 10 – APRIL 1, 2015

- (g) Home repair; and
- (h) Respite].

Section 15. Incorporation~~5. Material Incorporated~~ by Reference. (1) ~~The following material is incorporated by reference:~~

- (a) "DAIL-GA-01, Priority Screening Tool", November 2014;
- (b) "DAIL-MS-01, Multipurpose Senior Center Checklist", August 2014;
- (c) "DAIL-SS-02, Satellite Senior Center Checklist", August 2014; and
- (d) "DAIL-HC 01, Scoring Service Level", April 2014~~[The form necessary for the implementation of the supportive services for the elderly program shall be herein incorporated by reference].~~

(2) ~~This material incorporated by reference~~ may be inspected,~~[and] copied, or obtained, subject to applicable copyright law, at the Department for Aging and Independent Living[at the Office of Aging Services, CHR Building, 5th Floor], 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, [- Office hours are]~~ 8 a.m. to 4:30 p.m.

DEBORAH S. ANDERSON, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 10, 2015
FILED WITH LRC: March 12, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2015, at 9:00 a.m. in the Cabinet for Health and Family Services Auditorium, Suite B, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 2015, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who 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 April 30, 2015. Send written notification of intent to be heard at the public hearing or written comments 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, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Phyllis Sosa

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for administering the programs provided for under the Older Americans Act of 1965 as amended.

(b) The necessity of this administrative regulation: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, provides grants to states to provide assistance in the development of new or improved programs for older persons. KRS 205.204 designates the Cabinet for Health and Family Services as the state agency to administer the Older Americans Act in Kentucky. KRS 194A.050 authorizes the Cabinet for Health and Family Services to adopt regulations as necessary to implement programs mandated by federal law. This regulation establishes the Older Americans Act programs in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 194A.050(1) which states the secretary shall promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation provides the establishment and operation criteria as required pursuant to 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This

administrative regulation establishes the eligibility for supportive services, service provider responsibilities, service requirements, case management requirements, senior center specifications and requirements, training and education requirements and monitoring of service providers to ensure in each district a program of essential services which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons in accordance with KRS 205.460.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates definitions, establish service provider responsibilities, amend the services that shall be provided and update the requirements of service provisions, including senior centers, to comply with the Older Americans Act of 1965, as amended. This administrative regulation updates the qualifications for a case manager and the duties of providing case management for consistency across all department programs and establishes a social service assistant. This administrative regulation also includes the requirements for monitoring the service providers to determine compliance with contract requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide clarification of services, eligibility, and case management qualifications.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 194A.050(1) which states the secretary shall promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation provides the establishment and operation criteria as required pursuant to 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the eligibility for supportive services, service provider responsibilities, service requirements, case management requirements, senior center specifications and requirements, training and education requirements and monitoring of service providers to ensure in each district a program of essential services which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons in accordance with KRS 205.460.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation provides for services authorized under the Older Americans Act of 1965, as amended for individuals age sixty (60) and over. The population of older individuals in Kentucky is 829,000. This regulation will also affect the contract agencies which are the fifteen (15) Area Development Districts and the service provider agencies which are contracted through the Area Development Districts. These include home care agencies, home health agencies, senior centers, and transportation providers. The number of agencies and organizations varies by Area Development Districts.

(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 area development districts will have to hire qualified case managers and social service assistants, utilize person centered planning, contract with service providers qualified and capable of providing services identified through the person centered planning and monitor to ensure the service providers are following the individuals plan of care to meet the needs. Service providers will need the staffing capacity to meet the individualized needs of the participants, maintain participant records and provide supportive services throughout the geographic area covered under contract.

(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 to the providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The participants will have individualized services based on their identified needs and case management will be provided based on the level assessed need rather than one size fits all. Service providers will have a person centered plan of care that establishes the services needed, the number of days per week and the hours needed, this will not only assist in providing the needed services to the individual but assist with developing a staffing plan that will provide for the client's needs. The area development districts will be able to hire case managers to meet the new service delivery requirements which allow more clients to be assigned and to provide the amount of service needed rather than requiring the same level of case management for every client. The new social service assistants will be able to assist the case managers with staying current on paperwork and data entry as well as provide face to face visits and telephone contacts with individuals that are independent and in need of limited services.

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

(a) Initially: FY 15- approximately \$450,000

(b) On a continuing basis: FY 16 – approximately \$490,000.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds and state general funds will be used, to operate the 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: No increase in fees or funding will be necessary to implement this amended regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied since policy is administered the same statewide.

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? There are fifteen (15) Area Development Districts throughout the state which operate the designated Area Agencies on Aging and Independent Living. Fourteen (14) Community Mental Health Centers, four (4) designated Centers for Independent Living, and the Department for Aging and Independent Living affected 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 194A.050, 205.204(2); 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended; KRS 194A.050.

(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 amendment will not generate additional 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? The amendment, itself, will not generate additional revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? FY 15 – approximately \$450,000.

(d) How much will it cost to administer this program for subsequent years? FY 16- approximately \$490,000.

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

regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Quality Living
(Amendment)**

910 KAR 1:210. Kentucky Long-term Care Ombudsman Program.

RELATES TO: KRS 205.201, 209.030(5), 216.535, 216.540-216.543, 42 U.S.C. 3001 et seq.

STATUTORY AUTHORITY: KRS 194A.050, 205.204

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, requires states to establish and operate, either directly or by contract, a long-term care ombudsman program to protect the rights of older individuals. KRS 194A.050 authorizes the Cabinet for Health and Family Services to adopt administrative regulations as necessary to implement programs mandated by federal law. KRS 205.204 designates the Cabinet for Health and Family Services as the state agency to administer the Older Americans Act in Kentucky. The function of this administrative regulation is to implement a statewide Long-term Care Ombudsman Program as required by federal law, and in compliance with the statutory requirement of KRS 13A.221 that requires a separate administrative regulation for each topic of general subject matter. ~~[This administrative regulation contains the substance of 905 KAR 8:070 which is repealed.]~~

Section 1. Definitions. (1) "Access" means the right to enter a long-term care facility, meet with the residents, and review the records of a resident.

(2) "Administrator" means any person charged with the general administration or supervision of a long-term care facility without regard to whether the person has an ownership interest in the facility or to whether the person's functions and duties are shared with one (1) or more other persons.

(3) "Case" means each inquiry brought to, or initiated by, the ombudsman on behalf of a resident or group of residents involving one (1) or more complaints and includes an ombudsman investigation or strategy to resolve and follow-up.

(4) "Certification" means the official notification by the Kentucky long-term care ombudsman that local long-term care ombudsman individual staff are qualified and acceptable to function in that capacity.

(5) [(4)] "Complaint" means an allegation filed by residents or on behalf of residents relating to the health, safety, welfare, and rights of a resident.

(6) [(5)] "Complaint resolution" means either corrective action taken in regard to an allegation or a determination as to the validity of the allegation.

(7) [(6)] "Complaint verification" means a determination through investigative means that allegations relating to the health, safety, welfare, and rights of a patient are generally accurate [valid].

(8) "DAIL" means the Department for Aging and Independent Living.

(9) [(7)] "Designation" means formal notification by the Kentucky long-term care ombudsman that a district program meets requirements[,] and shall be considered a subdivision of the state office.

(10) [(8)] "District ombudsman" means that individual certified by the Kentucky long-term care ombudsman to implement the ombudsman provisions of the approved contract agency [area agency on aging] plan.

(11) "Educational or experiential equivalent" means:

(a) Two (2) semesters totaling at least twenty-four (24) hours of course work; and

(b) At least 400 documented hours of experience assisting

VOLUME 41, NUMBER 10 – APRIL 1, 2015

aging or disabled individuals through:

1. Practicum placement;
2. Clinicals; or
3. Volunteerism.

(12)(9) "Evaluation" means periodic analysis and review conducted by the Kentucky long-term care ombudsman[,] of district, regional, and state ombudsman programs, including quality assurance and outcome measures pertaining to individual and programmatic performance.

(13) "Friendly visitor" means a trained non-certified volunteer who visits residents in long-term care facilities to assist the district long-term care ombudsman program.

(14)(10) "Investigation" means the formal response by a long-term care ombudsman to complaints of issues involving the health, safety, welfare, and rights of a resident.

(15)(11) "Kentucky long-term care ombudsman" means the individual charged with the administration of the Kentucky Long-term Care Ombudsman Program under the provisions of the Older Americans Act of 1965, as amended.

(16) "Long term care facility" is defined by KRS 216.510(1).

(17)(12) "Monitoring" means periodic review[conducted by the Office of Aging Services and the area agency on aging] measuring ombudsman program's adherence to approved plans, including analysis of non-client specific data relating to program performance.

(18)(13) "Primary client group" means residents of long-term care facilities and those persons making application for admission to long-term care facilities and their families.

(19)(14) "Referral" means the appropriate channeling of information so as to effect a desired outcome[of a complaint].

(20)(15) "Regional long-term care ombudsman" means ombudsmen who operate directly from the Kentucky Long-term Care Ombudsman Program and whose responsibilities include coordination of a multi-area development district area.

(21)(16) "Unit of service" means one-half (1/2) hour of staff time, paid or volunteer, provided to or on behalf of a client or a group of clients.

(17) "Unduplicated client" means counting each individual served by the ombudsman program one (1) time within each fiscal year.

(18) "Volunteer ombudsman" means a certified unpaid[nonsalaried] individual serving within a district program to assist a district ombudsman.

Section 2. Responsibilities of Kentucky Long-term Care Ombudsman[Program]. (1) The Kentucky Long-term Care Ombudsman Program shall be administered by a full time ombudsman operated by DAIL or through a contracted entity[who shall be assigned to the Office of the Executive Director, Office of Aging Services, Cabinet for Health Services].

(2) The Kentucky Long-term Care Ombudsman[Program] shall be responsible for the:

(a) Design, implementation and management of a statewide uniform system for receiving, investigating, resolving, and reporting complaints on behalf of residents in long-term care facilities and provide ongoing support to assist in the resolution of those complaints;

(b) Investigation of complaints made by or on behalf of residents in long-term care facilities from areas of the state temporarily without local ombudsman programs if a local backup ombudsman is not available;

(c) Development and implementation of policies and procedures for operation of the program, including those related to:

1. Receipt, investigation, and resolution of complaints;
2. Protecting confidentiality of records and identity of complainants;
3. Establishing the right of public access to information regarding conditions in long-term care facilities; and
4. Securing ombudsman access to long-term care facilities, residents, and residents' personal and medical records;[-]

(d) Development and management of a system for the operation of a statewide network of district programs, including:

1. Designation of district programs through:

a. Reviewing applications for designation of district ombudsman contained in their plans for operating either directly or under subcontract;

b. Providing written confirmation of the designation; and

c. Administration of certification and training requirements;

2. Development of district program operating procedures and reporting requirements; and

3. Establishment of a communications link between the Kentucky long-term care ombudsman[state] and district programs;[-]

(e) Establishment and maintenance of program official files and adoption of procedures to protect the confidentiality of those files;

(f) Provision of information and education concerning:

1.[regarding] Program activities;

2.[] The long-term care system; and

3. The rights and concerns of residents and potential residents of long-term care facilities;

(g) Provision of assistance to citizen organizations, consumer groups, and other interested community organizations to enhance the rights of residents in long-term care facilities;

(h) Promotion of the development of citizen organizations at the state and local level to participate in the program;

(i) Use of publicity and outreach efforts directed at long-term care residents and families, network staff, and the general public about the availability of the program to receive and investigate complaints;

(j) Review of complaint, case, and issue data submitted by the district programs and analysis for trends, pattern, and issue identification;

(k) Annual National Ombudsman Reporting System (NORS) report to the Administration on Community Living:[state licensing and certifying agency, the Governor, the federal Administration on Aging and the public including:

1. Operation of the Kentucky Long-term Care Ombudsman Program;

2. Status of complaints and resolutions;

3. Conditions in long-term care facilities;

4. Serious issues of widespread concern; and

5. Proposals for corrective action at relevant levels of government.]

(l)[Preparation of progress reports and other required program reports;

(m) Assistance to the[area agencies on aging and] district ombudsman[programs] to establish, develop, and coordinate ombudsman activities;

(n)[(n)] Development of agreements and working relationships with relevant agencies to encourage their cooperation and assistance with the program at the state and local levels;

(o)[(o)] Development[, in cooperation with the legal services developer,] of agreements and working relationships with legal services programs, particularly those funded by the Older Americans Act of 1965, as amended;

(p)[(p)] Development and provision of training on an ongoing basis for regional and district ombudsman[state and local] program staff and volunteers;

(q)[(q)] Identification and development of additional funding and staffing resources for the long-term care ombudsman program;

(r)[(r)] Support and promotion of the formation of resident councils in long-term care facilities;

(s)[(s)] Development and provision of testimony and comment on proposed legislation, regulations, policies, and rule changes affecting the institutionalized elderly;

(t)[(t)] Conduction of other activities related to the protection and dignity of residents of long-term care facilities; and

(u)[(u)] Performance of other activities required by the Administration on Community Living[Commissioner on Aging, federal Administration on Aging].

Section 3. Responsibilities of the Regional Ombudsman. The regional ombudsman shall be[a full-time] staff[member] of, and report directly to, the Kentucky long-term care ombudsman and shall have the following responsibilities:

- (1) Receive, investigate, and resolve complaints;

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(2) Provide technical assistance and coordination of district programs~~[within the geographic area assigned];~~

(3) Assist in training of volunteers and local program personnel;

(4) Provide information to public agencies regarding problems of long-term care residents;

(5) Abide by established procedures related to reporting and confidentiality; and

(6) Perform other job duties as required by the Kentucky long-term care ombudsman.

Section 4. Designation of District Programs. (1) The Kentucky long-term care ombudsman shall designate district entities throughout the state to operate the long term care ombudsman program.

~~(2) The district ombudsman program entity shall submit a[area agency on aging] plan[shall contain an ombudsman portion] which shall serve as the application for designation of a district ombudsman. The application[Information contained] shall include:~~

~~(a) Definition of program in terms of the following personnel:~~

~~1. Program supervisor;~~

~~2. [Area development district monitor;~~

~~3.] Ombudsman advisory council;~~

~~3.[4.] District ombudsman;~~

~~4. Friendly visitors; and~~

~~5. Volunteer ombudsman;[-]~~

~~(b) Agency to conduct the program;~~

~~(c) Ability to receive, investigate, and resolve complaints on behalf of long-term care residents;~~

~~(d) Maintenance of a complaint documentation system;~~

~~(e) Ability to monitor the development and implementation of laws, policies, and regulations which apply to residential long-term care;~~

~~(f) Ability to recruit and provide standardized training for volunteers;~~

~~(g) Ability to respond in a timely fashion to requests from the Kentucky Long-term Care Ombudsman Program for statistical data and other information;~~

~~(h) Ability to receive training and continuing education from the Kentucky Long-term Care Ombudsman Program;~~

~~(i) Ability to assure confidentiality of files;~~

~~(j) Ability to inform and educate residents, sponsors, organizations, the long-term care industry, and the general public relative to issues affecting the long-term care system, the ombudsman program, and resident rights and concerns;[and]~~

~~(k) Provision that no individual involved in the appointment of a subdivision of the office and that no officer, employee, or other representative of the office is subject to a conflict of interest; and[-]~~

~~(l) Provision that representatives of the Kentucky Long-term Care Ombudsman Program shall not be liable under state law for the good faith performance of official duties.~~

~~[(2) The Kentucky Long-term Care Ombudsman Program shall:~~

~~(a) Review applications for designation by area agencies on aging contained in their area plans for operating programs either directly or under subcontract;~~

~~(b) Review applications for designation received independently of the area agency if independently operated ombudsman services are indicated in the area plan; and~~

~~(c) Provide written confirmation of the designation.]~~

(3) Designated ombudsmen shall be representatives of the Kentucky Long-term Care Ombudsman Program and shall be accorded rights and privileges of that office.

Section 5. Responsibilities of the District Ombudsman[Program]. The district ombudsman[program] shall:

(1) Provide services~~[under the supervision of qualified personnel]~~ as follows:

(a) There shall be a staff person, qualified by training and experience, responsible for administering each service and supervising assigned staff;

(b) There shall be designated staff who are trained and skilled in assessing and dealing with the needs of the elderly and in the delivery of each service;

(c) Volunteers and paid staff with the same responsibilities shall meet comparable requirements for training and skills;

(d) New staff shall receive an orientation and shall be trained and certified prior to assuming responsibilities;

(e) Staff shall attend required training and provide in-service training for staff and volunteers of local programs;

(f) Staff shall not accept personal gifts or money from participants or vendors; and

(g) Staff shall not~~[, without prior approval of the supervisor,] pay bills or cash checks for clients or participants;[-]~~

(2) Assure services are accessible to older persons by telephone, correspondence, or person-to-person contact;[-]

(3) Represent residents residing in long-term care facilities within the assigned geographical areas;[-]

(4) Assure residents' rights are upheld and promote quality care in long-term care facilities;[-]

(5) Investigate and work to resolve complaints on behalf of long-term care residents;[-]

(6) Promote community involvement in the program by:

(a) Publicizing the existence and function of the local and state programs;

(b) Advising the public about the availability of current state, local, and federal inspection reports, statements of deficiency, and plans for correction for individual long-term care facilities in the service area;

(c) Organizing and implementing an active volunteer program;

(d) Assisting in the development of resident or family and friends councils;

(e) Sponsoring community education and training programs for long-term care facilities, human service workers, families, and the general public about long-term care and residents' rights issues; and

(f) Promoting citizen involvement in order to ensure regular visitations, especially for those residents without available family or friends; and[-]

(7) Implement accurate recordkeeping procedures to assure that:

(a) An accurate record shall be maintained on each participant which documents:

1. Participant identification data;

2. Requests for service;

3. Eligibility for services provided;[and]

4. Follow-up; and

5. Closure;[-]

(b) Reports for the Kentucky long-term care ombudsman are prepared and submitted in a format and time frame as directed;

(c) Procedures are followed to protect the identity, confidentiality, and privacy of clients; and

(d) Nonclient-specific statistical and financial data is submitted~~[to the area agency on aging]~~ as required.

Section 6. Responsibilities of the Volunteer Ombudsman. The volunteer ombudsman shall:

(1) Complete required training, including training and certification requirements for those involved in complaint investigation;

(2) Provide regular visitation of residents in long-term care facilities[nursing homes];

(3) Adhere to guidelines provided by the Kentucky long-term care ombudsman[state] and district ombudsmen; and

(4) Complete required paperwork.

Section 7. Ombudsman Advisory Council. (1) The designated district ombudsman program shall have an advisory council whose functions are to:

(a) Review and advise programs on policies and procedures;

(b) Provide ongoing support and leadership; and

(c) Identify and generate funding resources for program viability.

(2) The advisory council shall be comprised as follows:

(a) Members shall be persons with a strong interest in improving the quality of life for the institutionalized elderly and for protecting their rights;

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(b) Group size and composition shall be individualized to the needs of the local program but shall not be less than seven (7); and

(c) One-third (1/3) of the members shall be consumers or family members of consumers.

(3) Advisory council members shall not:

(a) Be responsible for certifying or licensing long-term care facilities;

(b) Be a provider of long-term care services or part of an association of providers;

(c) Have any interest or association which may impair the ability of the ombudsman to objectively and independently investigate and resolve complaints;[or]

(d) Gain economically or receive any compensation from a long-term care facility or association;

(e) Be on the Adult Protective Services Caregiver Misconduct Registry or the Kentucky Nurse Aid Abuse registry; or

(f) Have been found guilty of the following:

1. A violent crime as defined by KRS 439.3401;

2. Abuse, neglect, or exploitation of another person, including assault;

3. Felony theft offense; or

4. Felony drug offense.

Section 8. Qualifications, Certification, and Training of Long-Term Care Ombudsmen. (1) The Kentucky long-term care ombudsman, regional ombudsman, and district long-term care ombudsman shall:

(a) Possess a minimum of a bachelor's degree in a health or human services profession from an accredited college or university with:

1. One (1) year experience in health or human services; or

2. The educational or experiential equivalent in the field of aging or physical disabilities; or

(b) Be a certified regional or district ombudsman with no lapse in certification prior to the effective date of this administrative regulation.

(2) A district, regional, or volunteer ombudsman, and friendly visitor shall have a completed background check conducted prior to hire for the following:

(a) The Adult Protective Services Caregiver Misconduct Registry;

(b) The Kentucky Nurse Aid Abuse registry; and

(c) A criminal record check utilizing the Kentucky Administrative Office of the Courts or the Kentucky Justice Cabinet and not have been found guilty of the following:

1. A violent crime as defined by KRS 439.3401;

2. Abuse, neglect, or exploitation of another person, including assault;

3. Felony theft offense; or

4. Felony drug offense.

(3) [provide training as follows:

(1) Staff and volunteers shall participate in a basic training program designed to give trainees a working knowledge of the ombudsman program and the long-term care system.

(2) Program sponsors, sub-contract agency [area agency on aging] directors, and directors of other sponsoring agencies shall receive basic training whenever possible.

(4) [(3)] The [district] long-term care ombudsman, program staff, and volunteers shall receive a minimum of twenty-four (24) hours of training, including at least the following areas:

(a) The Older Americans Act of 1965, as amended, and the aging network;

(b) Characteristics, special needs, and problems of the long-term care resident;

(c) Characteristics of long-term care facilities [nursing homes] including:

1. Numbers of beds;

2. Levels of care;

3. Services; and

4. Costs; [and]

(d) The long-term care reimbursement system including:

1. Medicaid;

2. Medicare;

3. SSI; and

4. State supplementation; [and]

(e) The regulation of facilities and the enforcement of regulations;

(f) Complaint investigation and resolution;

(g) Guardianship;

(h) Residents' rights;

(i) Development of residents' councils;

(j) Recruiting, screening, selecting, training, placing, and supporting volunteers; and

(k) Use of public funds.

[(4)] In addition to the minimum training, District ombudsmen shall attend [quarterly] training meetings as established by the Kentucky long-term care ombudsman [provided].

(6) All long-term care ombudsmen and volunteers shall be:

(a) Certified within thirty (30) days of hire or prior to providing services; and

(b) Re-certified every two (2) years prior to the expiration of the current certification.

(7) Certification shall be awarded after submitting certification documentation of:

(a) Verification of completion of minimum training requirements; and

(b) A score of at least eighty (80) percent on the certification examination.

Section 9. Confidentiality. Investigatory files, complaints, responses to complaints and other information related to complaints or investigations maintained by the ombudsman program shall be considered confidential information in accordance with the Older Americans Act of 1965, Section 307(12)(B) and (D). Confidentiality shall be maintained using the following criteria:

(1) Persons who gain access to a resident's [residents'] records shall not discuss or disclose information in the records or disclose a resident's identity outside of the program.

(2) The Kentucky long-term care ombudsman shall release information only with: [without:]

(a) Written consent of the resident [or complainant]; or

(b) A court order to disclose.

(3) [(2)] Information shall be secured as follows:

(a) Complaint files shall be contained in a locked file cabinet;

(b) Computerized systems shall have secured access codes;

and

(c) Computer software containing confidential information shall be stored in a locked file.

(4) [(3)] The confidentiality and disclosure criteria shall not preclude the ombudsman's use of otherwise confidential information in the files for preparation and disclosure of statistical, case study, and other data; [and] if the ombudsman does not disclose the identity of persons otherwise protected in this section.

Section 10. Rights of Access. (1) Kentucky, regional, volunteer, and district ombudsmen shall have unrestricted access to long-term care facilities:

(a) Without prior notice;

(b) To meet with one (1) or more residents; and

(c) To observe the operation of the facility as it affects the patient.

(2) Volunteer ombudsmen shall have access [during normal visiting hours] to the:

(a) Residents' dining area;

(b) Residents' living area;

(c) Residents' recreational area;

(d) Lounges; and

(e) Areas open to the general public.

(3) Certified representatives of the Kentucky Long-term Care Ombudsman Program shall have access to a resident's medical and social records:

(a) With permission of the resident or his legal guardian, except as provided for under KRS 209.030(5); or

(b) By court order.

(4) Access shall not include the right to examine the financial

VOLUME 41, NUMBER 10 – APRIL 1, 2015

records of the facility without the consent of the administrator.

(5) If the ombudsman is denied entry to a long-term care facility, the administrator or operator shall be informed of the statutory authority for access. If entry is still denied, the ombudsman shall inform the Kentucky long-term care ombudsman, the Office of Inspector General, Division of Health Care [Licensing and Regulation], and secure assistance from local law enforcement officials.

(6) Willful interference, as governed by KRS 216.541(3) [216.535(7)], with representatives of the Kentucky Long-term Care Ombudsman Program in the performance of official duties shall be unlawful and:

- (a) Result in a fine of \$100 to \$500 for each violation;
- (b) Each day the violation continues shall constitute a separate offense.

Section 11. Referrals. (1) The district [Kentucky] long-term care ombudsman shall refer reports of abuse, neglect, exploitation, or spouse abuse to the Department for Community Based Services, Division of Protection and Permanency [Divisions of Family Services] and, if appropriate, the Office of Inspector General, Division of Health Care [Licensing and Regulation] for investigation. Referrals under this subsection shall not affect the continuing duty, full freedom, and independence of the ombudsman to:

- (a) Insure the continued adequacy and responsiveness of complaint investigation and resolution, monitoring, and data collection systems consistent with the Older Americans Act;
- (b) Maintain an independent capacity to investigate and resolve complaints[,] as governed by Section 13 of this administrative regulation;
- (c) Receive and process, on a regular basis, information related to the number, type, and source of complaints, facilities involved, and the manner of complaint resolution; and
- (d) Maintain by specific agreement the power, ability, and right to monitor the agency's complaint processing performance and take action necessary to correct and improve deficiencies.

(2) District ombudsmen shall address concerns regarding the investigation or resolution of complaints referred under subsection (1) of this section to the Kentucky long-term care ombudsman.

(3) District ombudsmen shall make referrals to county attorneys, legal aid agencies, and legal assistance offices.

(4) District ombudsman shall report to the Kentucky long-term care ombudsman a referral [Referrals] to the Office of the Attorney General or any federal agency [and the Cabinet for Health Services's Office of Counsel shall be made through the Kentucky long-term care ombudsman].

Section 12. Receiving Reports. (1) The Kentucky long-term care ombudsman, regional ombudsmen, district ombudsmen, and persons identified and approved by these ombudsmen shall have the authority to provide intake of a complaint.

(2) The person receiving a report shall obtain as much information as possible, making a reasonable effort to obtain the:

- (a) Name and location of the long-term care facility involved;
- (b) Name and location of the resident;
- (c) Name, address, and telephone number of the person responsible for the resident;
- (d) Nature of the complaint as specifically as possible;
- (e) Name and location of the alleged perpetrator; and
- (f) Identity of the reporting source, though [-] reports may be made anonymously.

(3) The person receiving the report may contact other agencies or individuals to secure additional information relevant to the investigation.

Section 13. Complaint Investigation. (1) A long-term care facility resident [residents] shall have the right to:

- (a) Voice grievances and recommend changes in policies and services to facility staff and outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal;
- (b) Associate and communicate privately with persons of their

choice; and

(c) Private meetings with the appropriate long-term care facility inspectors from the Cabinet for Health and Family Services.

(2) A long-term care ombudsman [ombudsmen] shall investigate and resolve complaints:

(a) Made by or on behalf of an elderly individual [individuals] who is a resident [are residents] of a long-term care facility [facilities] relating to action which may adversely affect the health, safety, welfare, and rights of the resident;

(b) Made by or on behalf of a nonelderly long-term care facility resident [residents] if actions will:

- 1. Benefit an elderly resident [residents] of that long-term care facility or elderly residents of long-term care facilities generally; or
- 2. Be the only viable avenue of assistance available to the resident; and
- 3. Not significantly diminish the Long-term Care Ombudsman Program's efforts on behalf of elderly persons.

(3) District and volunteer ombudsmen shall not investigate complaints unless certified by the Kentucky Long-term Care Ombudsman Program. [Certification shall be extended after completion of minimum training requirements and attendance at an ombudsman competency conference conducted by the Kentucky Long-term Care Ombudsman Program or, in the case of volunteer ombudsmen, by the district Long-term Care Ombudsman Program.]

(4) The Kentucky and regional ombudsmen shall inform the district ombudsmen of on-site investigations conducted in their districts.

(5) The investigation shall be conducted according to the following criteria:

(a) Investigation shall [may] include contact with the resident, staff of the long-term care facility, and collateral contacts.

(b) A representative [Representatives] of the program shall, upon entering the facility, promptly notify the administrator or his designated representative of his [their] presence.

(c) A representative [Representatives] of the program shall not enter the living area of a resident [residents] without identifying himself [themselves] to the resident.

(6) The investigating ombudsman, with permission of the resident or legal representative, shall take [immediate] steps to investigate [resolve] a [substantiated] complaint and attempt to resolve the complaint to the resident's satisfaction [The ombudsman shall consider the resident's choice of remedy. Reasonable avenues of assistance to the complainant, directly or by referral, shall be addressed, and if efforts are unsuccessful, the ombudsman shall so advise the complainant and provide information explaining how to proceed independently]. Resolution may include:

(a) Collaborating [Persuading] or negotiating at the nursing home administrative level to change particular nursing home behavior, pattern, or practice affecting the resident;

(b) Consulting with a resident, relative, or nursing home staff member to resolve a problem;

(c) Effecting positive enforcement action by a regulatory agency;

(d) Proposing regulatory or statutory changes or additions;

(e) Communicating with community groups and professional organizations; and

(f) Encouraging the utilization of legal services assistance [by the complainant].

(7) [Written] Documentation shall be completed on complaint investigations and incorporated into the ombudsman data system as follows [files]:

(a) The documentation entered into the data system [DSS-1240 Long-term Care Complaint form, herein incorporated by reference,] shall be entered by the fifteenth (15th) of the month for all cases completed the prior month [at the conclusion of the investigation]; and

(b) [A narrative] Documentation of the investigation shall include the:

- 1. Identity of the resident on whom the report is made;
- 2. Date the face-to-face visit with the resident was completed;
- 3. Identity of the long-term care facility;

VOLUME 41, NUMBER 10 – APRIL 1, 2015

- 4.[3.] Complaint;
- 5.[4.] Identity of persons interviewed and records or documents reviewed during the course of the investigation;
- 6.[5.] Factual information used to support findings and conclusions; and
- 7.[6.] Actions taken and services provided.

(8) Resolution shall include documented follow-up and ongoing monitoring of the situation for a reasonable period of time, depending on the complexity of the situation, through contact with the complainant or resident[, or otherwise] if appropriate, for the purpose of determining that the causes giving rise to the complaint have not been repeated and have not recurred.

(9) Retaliation and reprisals by a long-term care facility or other entity against an employee or resident for having filed a complaint or having provided information to the Kentucky Long-term Care Ombudsman Program shall be unlawful and:

- (a) Shall result in a fine of \$100 to \$500 for each violation; and
- (b) Each day a violation continues shall constitute a separate offense.

Section 14. Reporting Requirements. The Kentucky long-term care ombudsman program shall maintain a statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. (1) The contracted agency providing the district long-term care program[area agency on aging] shall submit quarterly reports to the Kentucky long-term care ombudsman according to the contractual agreement[following schedule]:

1 st quarter	Oct 1 – Dec 31	Due January 15
2 nd quarter	Jan 1 – Mar 31	Due April 15
3 rd quarter	Apr 1 – Jun 30	Due July 15
4 th quarter	Jul 1 – Sep 30	Due October 15]

(2) The district ombudsman shall submit an annual report to the Kentucky long-term care ombudsman no later than determined in the contractual agreement[October 15] for inclusion in the annual state ombudsman report.

~~(3) Copies of the DSS 1240 Long-term Care Complaint form, herein incorporated by reference, shall be submitted by the district or regional ombudsman to the Kentucky long-term care ombudsman to be reviewed and retained in a confidential file. Supporting documentation shall be submitted upon request of the Kentucky long-term care ombudsman.~~

~~(4) The following activities facilitate the delivery of services but shall not be reported as units of service:~~

- ~~(a) Review, update or maintenance of resource or agency files;~~
- ~~(b) Travel time incurred in the delivery of the service;~~
- ~~(c) Training or staff meetings; and~~
- ~~(d) Project management.~~

~~(5) The following shall be utilized to determine unduplicated client count:~~

- ~~(a) Persons who directly receive a service from the program, including friendly visiting;~~
- ~~(b) Persons who reside in a long-term care facility and benefit from services directed at improving quality of life for residents in that facility, even if the resident did not directly receive the service; and~~
- ~~(c) Persons who participate in training conducted by the ombudsman program and are not a part of the program.]~~

Section 15. Monitoring and Evaluation. (1) District long-term care ombudsman programs shall be monitored annually by the contract agency or the Kentucky long-term care ombudsman according to contract[area agency on aging,] or, if services are provided directly by the Kentucky long-term care ombudsman[area agency on aging], by the DAIL[Office of Aging Services].

(2) Formal evaluations of the district ombudsman program

shall be conducted at regular intervals, at least annually, by the Kentucky long-term care ombudsman.

~~(3) The results of the evaluation, omitting client identifying information, shall be made available to the district long-term care ombudsman contracting agency[area agency on aging] to be used to plan and implement program changes to meet participant needs.~~

~~(4) The Kentucky long-term care ombudsman and district long-term care ombudsman contracting agency shall permit staff of the Cabinet for Health and Family Services, persons acting for the Cabinet for Health and Family Services, or staff designated by appropriate federal agencies to:~~

~~(a) Monitor and evaluate programs and activities initiated under the Older Americans Act and other programs for which the department has administrative responsibility; and~~

~~(b) Interview clients by persons and agencies listed in this subsection, except if confidentiality requirements are applicable.~~

[Section 16. Material Incorporated by Reference.

~~(1) Forms necessary for the implementation of the Kentucky Long-term Care Ombudsman Program shall be herein incorporated.~~

~~(2) Material incorporated by reference may be inspected and copied at the Office of Aging Services CHR Building, 5th Floor, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.]~~

DEBORAH S. ANDERSON, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 10, 2015

FILED WITH LRC: March 12, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2015, at 9:00 a.m. in the Cabinet for Health and Family Services Auditorium Suite B, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 2015, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who 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 April 30, 2015. Send written notification of intent to be heard at the public hearing or written comments 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, email tricia.orme@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Phyllis Sosa

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for administering the Long-Term Care Ombudsman program provided for under the Older Americans Act of 1965 as amended.

(b) The necessity of this administrative regulation: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, provides grants to states to provide assistance in the development of new or improved programs for older persons. KRS 205.204 designates the Cabinet for Health and Family Services as the state agency to administer the Older Americans Act in Kentucky. KRS 194A.050 authorizes the Cabinet for Health and Family Services to adopt regulations as necessary to implement programs mandated by federal law. This regulation establishes the Long Term Care Ombudsman program in Kentucky as required by the Older Americans Act of 1965.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 194A.050(1) which states the secretary shall promulgate

administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation provides the establishment and operation criteria as required pursuant to 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the Long Term Care Ombudsman program responsibilities. This administrative regulation defines the role of the Kentucky Long Term Care Ombudsman, district, regional and volunteer ombudsmen and the qualifications to serve in the role of an Ombudsman. The duties and responsibilities of the program and individual Ombudsmen are provided in the regulation to ensure statewide consistency in carrying out the provisions of the Long Term Care Ombudsman program as required by the Older Americans Act of 1965, as amended.

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

(a) How the amendment will change this existing administrative regulation: This amendment updates definitions, establishes the qualifications for being a certified Ombudsman and updates the requirements of service provisions to comply with the Older Americans Act of 1965, as amended.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to provide clarification of services, eligibility, and Ombudsman qualifications.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 194A.050(1) which states the secretary shall promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation provides the establishment and operation criteria as required pursuant to 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the Long-Term Care Ombudsman program requirements, establishes statewide qualifications of Long-Term Care Ombudsmen at the state, regional and district level and complies with the requirements of receiving and investigating complaints of residents in long term care facilities to assist in resolving issues to the complainants satisfaction and working with facilities to meet the needs of the individuals.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation provides for the Long-Term Care Ombudsman program authorized under the Older Americans Act of 1965, as amended for individuals residing in Long-Term Care facilities. There are 524 facilities with 34,000 beds in Kentucky that the Long-Term Care Ombudsman program is responsible for visiting and providing services. This regulation will also affect the fifteen (15) Area Development Districts and the contracted entity designated as the Kentucky Long-Term Care Ombudsman.

(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 contracted entities that provide the Long-Term Care Ombudsman services will have to hire Ombudsmen that meet the qualifications of the regulation upon the resignation, retirement or loss of current Ombudsmen. The certified ombudsmen shall comply with the certification requirements and meet the requirements of the program in visiting facilities and residents and addressing issues and complaints. There will be no actions to be taken by the residents of long term care facilities or the facilities themselves based on the amendment to 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 are no anticipated additional costs to the providers as they may keep current staff and developing additional volunteers can assist in reducing the cost of the program.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The residents will have qualified, trained and professional individuals working to address the needs, complaints and issues that are voiced by the residents in long term care facilities.

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

(a) Initially: It will cost approximately \$200,000 initially to implement this regulation.

(b) On a continuing basis: It will cost approximately \$250,000 in FY 2016 and an additional \$50,000 annually thereafter to implement this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal and state general funds of will be used to implement this regulation and operate this 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: No increase in fees or funding will be necessary to implement this regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied since policy is administered the same statewide.

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? There are fifteen (15) Area Agencies on Aging and Independent Living throughout the state, and the Department for Aging and Independent Living affected 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 194A.050, 205.204, 13A.221, and 42U.S.C. 3001et 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.

(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 will not generate additional 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? The amendment will not generate additional revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? It will cost approximately \$200,000 initially to implement this regulation.

(d) How much will it cost to administer this program for subsequent years? It will cost approximately \$250,000 in FY 2016 and an additional \$50,000 annually to implement this program.

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:

VOLUME 41, NUMBER 10 – APRIL 1, 2015

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Operations and Support
(Amendment)

910 KAR 1:220. General administration, programs for older individuals and persons with disabilities[the elderly].

RELATES TO: KRS 205.201, 205.203, 205.455-465.31, 205.900(3), 211.470-211.478, 45 C.F.R. 92.25(g)(2), (3) Part 74, Subpart B, 213, 1321, 5 U.S.C. 552, 7501 et seq., 42 U.S.C. 3001 et seq.

STATUTORY AUTHORITY: KRS 194A.050, 205.204(2)

NECESSITY, FUNCTION, AND CONFORMITY: 42 U.S.C. 3001 et seq., the Older Americans Act of 1965, as amended, authorizes grants to states to provide assistance in the development of new or improved programs for older persons. KRS 194A.050 authorizes the Cabinet for Health and Family Services to adopt regulations as necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds. KRS 205.204 designates the Cabinet for Health and Family Services as the state agency to administer the Older Americans Act in Kentucky. The function of this administrative regulation is to set forth the policies and procedures governing the general administration of the aging and disabilities programs and Older Americans Act in Kentucky, in compliance with the statutory requirement of KRS 13A.221 that requires a separate administrative regulation for each topic of general subject matter. [~~This proposed administrative regulation consolidates the provisions of 905 KAR 8:010, 8:040, 8:050, 8:060, and 8:080.~~]

Section 1. Definitions. (1) "Administration on Community Living" or "ACL" means the federal agency housed within the Office of the Secretary of Health and Human Services which is responsible for the administration of grant awards to state units on aging under Title III of the Older Americans Act.

(2) "Area Agency on Aging and Independent Living" or "AAAIL" means an area agency on aging as defined by 42 U.S.C. 3002(6).

(3) "Area plan" means a plan submitted by an AAAIL to the department that releases funds under contract for the delivery of service within a planning and service area.

(4) "Corrective action" means the written statement of non-compliance issued to a provider for failure to comply with contractual obligations, federal or state regulations, or department policy.

(5) "Corrective action plan" means the written response of the provider to eliminate the non-compliance issues addressed in the written corrective action statement and prevent future non-compliance from occurring.

(6) "Department" or "DAIL" means the Department for Aging and Independent Living.

(7) "Fidelity bond" means a bond indemnifying the recipient against losses resulting from the fraud or lack of integrity, honesty, or fidelity of one (1) or more employees, officers, or other person holding positions of trust.

(8) "Greatest economic need" is defined by 42 U.S.C. 3002(23).

(9) "Greatest social need" is defined by 42 U.S.C. 3002(24).

(10) "In-kind resources" means the value of property or services which benefit a grant-supported project or program and which are contributed by nonfederal third parties without charge to the grantee.

(11) "Planning and service area" or "PSA" means that multicounty geographical entity in which a given AAAIL is responsible for the planning of aging services.

(12) "Program income" means the gross income earned by a provider agency from activities of which part or all of the cost is either borne as a direct cost counted towards meeting a cost sharing or matching requirement of department contracted funds.

(13) "Provider agency" means an entity that provides for the performance of services or performs a specific service under contract.

(14) "Service provider" means the agency under contract with

DAIL or a provider agency to provide direct services.

(15) "State plan" means the formal application of the office for federal Title III funds under the Older Americans Act and provides a basis for the expenditures of these funds.

(16) "Target group" means older individuals:

(a) Who are low-income, including low-income minority;

(b) With limited English proficiency;

(c) Residing in rural areas; or

(d) At risk for institutional placement.

Section 2. Responsibilities of the DAIL. The DAIL shall:

(1) Develop the state plan on aging and disability;

(2) Consider the views of older persons and the general public in developing and administering the state plan by:

(a) Receiving public and consumer participation in identifying service needs and establishing funding priorities prior to the submission of the state plan for approval;

(b) Responding to requests of the Institute for Aging for information and submit for its review and comment on proposed plans, budgets, programs, policies, and general initiatives;

(c) Eliciting input from appropriate external sources as opportunities present themselves; or

(d) Reviewing and considering comments received regarding program plans, budgets, policies, and general initiatives and making changes if feasible and in the best interests of those individuals for whom the programs are designed;

(3) Coordinate statewide planning and development of activities and provide technical assistance to provider agencies to ensure effective coordination of programs;

(4) Establish and enforce appropriate procedures for data collection from contract agencies to permit the state to compile and transmit statewide data in a form the commissioner directs on an annual basis;

(5) Conduct, within budget limitations, activities to implement training and education programs which include the following:

(a) Conducting annual assessments to identify training needs and develop correlating plans;

(b) Identifying and reviewing resources available to meet training needs;

(c) Developing a comprehensive education and training plan;

(d) Seeking additional resources to implement the plan;

(e) Effecting interagency coordination for the provision of specialized training;

(f) Facilitating and assisting the efforts of higher education in statewide forums of a gerontological or disability orientation;

(g) Coordinating education programs with private, public, governmental, and educational organizations and institutions;

(h) Providing and coordinating training opportunities for personnel of agencies and programs utilizing department funding;

(i) Providing training to provider agencies on self-evaluation and monitoring; and

(j) Providing training as part of the state training plan including ongoing technical assistance and annual program evaluation;

(6) Participate in appointments to boards and commissions as required by the cabinet;

(7) Review, monitor, evaluate, and comment on federal, state, and local area plans which affect or may affect older individuals and those with disabilities;

(8) Recommend changes in these plans which the department deems appropriate including:

(a) Budgets;

(b) Regulations;

(c) Programs;

(d) Laws;

(e) Levies;

(f) Hearings;

(g) Policies; and

(h) Actions;

(9) Monitor the performance of programs and activities for quality and effectiveness and to determine compliance with contract requirements, approved area plans, and applicable federal and state statutory and regulatory requirements;

(10) Have an adequate number of qualified staff to carry out

VOLUME 41, NUMBER 10 – APRIL 1, 2015

the functions prescribed in 45 C.F.R. 1321.9 of the Older Americans Act and other program regulations for which the department has administrative responsibility;

(11) Give preference to individuals aged sixty (60) or older, subject to the requirements of merit employment systems of state and local governments;

(12) Assure that the provider agency allots an adequate proportion of its funding for the provision of direct services to eligible participants;

(13) Develop and make known to the provider agency procedures for and conditions under which funding may be suspended;

(14) Comply with the provisions of the Older Americans Act of 1965, as amended;

(15) Designate PSAs in accordance with the provisions of Section 305(a)(1)(E) of the Older Americans Act;

(16) Designate the AAAIL in each PSA;

(17) Develop and use a federally approved intrastate funding formula for Older Americans Act of 1965 funding;

(18) Provide area-specific information in a statewide summary of the local needs assessment conducted in each PSA;

(19) Conduct joint meetings with the provider agencies to:

(a) Coordinate statewide planning and development of activities; and

(b) Provide technical assistance to each provider agency to ensure effective procedures for coordination of programs within the PSA;

(20) Notify the contract agencies in writing in advance of the date the joint meeting shall take place;

(21) Solicit input from the contract agency as to the topics to address and discuss at the joint meeting; and

(22) Issue a waiver of program requirements;

(a) In compliance with Section 316 of the Older Americans Act of 1965 as amended; or

(b) To develop pilot projects as allowed for state funded programs.

Section 3. Distribution of State and Federal Funding for Aging and Disability Programs. Directly or through contract with a provider agency, funding allocations shall be distributed according to program requirements. (1) The department shall distribute available state and federal funds to the provider agency according to a funding formula determined by the department.

(2) Older Americans Act funding shall be allocated based on the funding formula developed by the department and approved by the ACL.

(3) Funding allocated from funds authorized under the following categories shall be for the purpose of assisting the department to develop or enhance comprehensive and coordinated community-based services throughout the state:

(a) State administration;

(b) Provider agency administration;

(c) Home care;

(d) Personal Care Assistant Program;

(e) Traumatic Brain Injury Trust Fund;

(f) Hart Supported Living Program;

(g) Kentucky Family Caregiver Program;

(h) Brain Injury Behavioral Program;

(i) Senior Community Employment Program;

(j) State long-term care ombudsman, Title III-B and Title VII;

(k) Supportive services, Title III-B;

(l) Congregate meals services, Title III C 1;

(m) Home-delivered meals services, Title III C 2;

(n) Evidence based health promotion services, Title III-D; and

(o) Elder abuse services, if funds are available, Title VII.

(4) Except for the State Long-Term Care Ombudsman and state administration, the department shall award the available Older Americans Act funds according to the federally approved intrastate funding formula;

(a) Determined by the department after consultation with the AAAILs in the state and publication of the formula by the department for review and comment by older persons and the general public; and

(b) Which shall reflect the proportion among the PSA of persons age sixty (60) and over in greatest economic or social need with particular attention to low income minority individuals.

(5) The department shall follow the procedures for and conditions under which funding may be temporarily suspended or terminated according to Section 10 of this administrative regulation.

Section 4. Designation and Withdrawal of Designation of an AAAIL. (1) Each PSA shall have designated by DAIL a public or private nonprofit agency or organization as the AAAIL in accordance with Section 305(c) of the Older Americans Act.

(2) The department shall withdraw the AAAIL designation if, after reasonable notice and opportunity for a hearing, the department finds that:

(a) The AAAIL does not meet the requirements set out in subsection (1) of this section or Section 5 of this administrative regulation;

(b) The plan or plan amendment is not approved;

(c) There is substantial failure in the provision or administration of an approved area plan to comply with provisions of the area plan requirements under the Older Americans Act; or

(d) There is a request by the AAAIL.

(3) The department shall initiate the designation withdrawal process of the AAAIL and shall:

(a) Notify the AAAIL of its intent to withdraw designation, citing non-compliance issues and outlining steps to be taken to appeal the intent to withdraw designation in accordance with 910 KAR 1:140; and

(b) Assist in the facilitation of the hearing as set forth in 910 KAR 1:140 if the AAAIL requests a state hearing.

(4) Following the appeal process, the cabinet shall notify the AAAIL in writing of the hearing.

(5) If the department withdraws the AAAIL's designation, it shall:

(a) Notify the administrator of the ACL and the cabinet secretary in writing of its action;

(b) Provide a plan for the continuity of planning and services in the affected PSA; and

(c) Designate a new AAAIL in the PSA.

(6) To ensure continuity of planning and services in a PSA, the DAIL may, for a period of up to 180 days after its final decision to withdraw designation of a AAAIL:

(a) Perform the responsibilities of the AAAIL; or

(b) Assign the responsibilities of the AAAIL to another provider agency in the PSA.

(7) If necessary, the administrator of the ACL may extend for a period of up to an additional 180 days the limit in subsection (4) of this section if the state agency:

(a) Requests an extension; and

(b) Demonstrates to the administrator of the ACL a need for the extension.

Section 5. Responsibilities of the AAAIL. The AAAIL shall be designated by the department in each PSA and shall:

(1) Establish an advisory council as follows:

(a) The area advisory council shall carry out functions which further the AAAIL's mission of developing and coordinating community-based systems of services for older persons in the PSA. The council shall advise the AAAIL relative to:

1. Developing, reviewing, and commenting on the area plan prior to submitting to the department for approval;

2. Conducting public hearings;

3. Representing the interest of older persons; and

4. Reviewing and commenting on community policies, programs, and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.

(b) The advisory council shall be made up of:

1. More than fifty (50) percent older persons, including minority individuals who are participants or who are eligible to participate in programs under the Older Americans Act;

2. Representatives of older persons;

VOLUME 41, NUMBER 10 – APRIL 1, 2015

3. Representatives of health care provider organizations, including providers of veterans' health care if providers of veterans' health care are located in the geographical area served within the PSA;

4. Representatives of supportive services provider organizations;

5. Persons with leadership experience in the private and voluntary sectors;

6. Local elected officials; and

7. The general public;

(2) Include individuals and representatives of community organizations who shall help to enhance the leadership role of the AAAIL in developing community-based systems of services;

(3) Serve as the public advocate for the development for enhancement of comprehensive and coordinated community-based systems of services in each community throughout the PSA;

(4) Monitor, evaluate, and provide comment on policies, programs, hearings, levies, and community actions which affect older persons and persons with disabilities;

(5) Solicit comments from the public on the needs of older persons, and persons with disabilities having procedures for receiving community and consumer participation in the planning and service delivery process in conformance with 45 C.F.R. 1321.57(c) and 1321.61(b);

(6) Represent the interests of older persons and persons with disabilities to local-level and executive branch officials and public and private agencies or organizations;

(7) Consult with and support the Commonwealth's long-term care ombudsman program;

(8) Undertake ongoing activities designed to facilitate the coordination of area plans and activities with other public and private organizations;

(9) Promote new or expanded benefits and opportunities for older persons and persons with disabilities;

(10) Undertake a leadership role in assisting communities throughout the PSA to target resources from appropriate sources to:

(a) Meet the needs of the target group; and

(b) Recommend the location of services and specialization in the types of services most needed by the above-referenced group;

(11) Prohibit means testing for services funded through Older Americans Act funds;

(12) Prepare and develop for a PSA an area plan as determined by the department and in accordance with Section 306 of the Older Americans Act of 1965;

(a) By the annually established deadline;

(b) Which shall include:

1. A mission and vision statement;

2. Planning and service area geographics;

3. A profile of regional demographics;

4. Funding sources for the AAAIL;

5. Services offered within the PSA;

6. Partnerships and associations;

7. A capacity assessment;

8. A capacity building plan;

9. Public hearings;

10. Service usage;

11. Participants of aging programs feedback and satisfaction;

12. Coordination and collaborations;

13. Outreach and expansion;

14. Community opportunities;

15. Intake and referral;

16. Financial management and fund development;

17. AAAIL advisory council membership;

18. AAAIL administrative staffing plan;

19. AAAIL direct staffing plan;

20. A provider agency staffing plan;

21. Long Term Care Ombudsman advisory council membership;

22. A provider site list;

23. Performance plans;

24. Waivers and special program approvals;

25. Provider approvals;

26. Assurances;

27. A financial plan and outputs; and

28. Other information requested in advance by the department; and

(c) Each area plan shall be subject to amendment by the AAAIL upon request of the department;

(13) Provide area-specific information of the local needs assessment conducted in the PSA;

(14) Specify in writing to the department how the AAAIL intends to satisfy the needs of the target group served through the contract in proportion to the population served;

(15) Within budget limitations, implement education and training programs that respond to the needs of older individuals, the disabled, service providers, and other groups which include;

(a) Conducting annual assessments to identify training needs and develop correlating plans;

(b) Identifying, reviewing, and pursuing resources available to meet training needs;

(c) Developing a comprehensive education and training plan;

(d) Coordinating interagency collaboration for the provision of specialized training;

(e) Facilitating and assisting the efforts of higher education in statewide forums related to the aging and disabled populations;

(f) Conducting and coordinating education and training related to the aging and disabled population and programs for area advisory councils and the general community;

(g) Specifying the training requirements of the service providers; and

(h) Planning and implementing staff development initiatives; and

(16) Conduct periodic evaluations of, and public hearings on, activities carried out in the PSA.

Section 6. Public Hearings. (1)The department shall, if appropriate, utilize public hearings as one (1) method of obtaining both proactive and reactive community and consumer participation in prioritizing and evaluating activities and projects carried out under the state plan.

(2) If public hearings are utilized, the department shall:

(a) Schedule a minimum of one (1) public hearing annually for the purpose of evaluating activities and projects carried out in the state plan;

(b) Specify the inclusion of an evaluation of the state plan's effectiveness in reaching the target population;

(c) If appropriate, schedule public hearings for the purpose of receiving community and consumer participation in the development and implementation of service activities;

(d) Require of the AAAIL a timely conducted public hearing prior to the consideration of a request of the department for a waiver from a service provision responsibility required in the area plan; and

(e) Schedule, advertise, and conduct public hearings it deems appropriate in a manner designed to encourage, enhance, and facilitate community and consumer participation.

(3) The department shall consider the views of older persons and the general public in developing and administering the state plan and shall:

(a) Utilize methods which include public hearings in receiving public and consumer participation in identifying service needs and establishing funding priorities prior to the submission of the state plan for federal approval;

(b) Advertise the date, time, location, and purpose of each public hearing with the local media in the PSA in and for which the hearing is being held;

(c) Elicit input from appropriate external sources as opportunities present themselves;

(d) Require AAAILs to develop procedures for receiving community and consumer participation in the planning and service delivery process in conformance with 45 C.F.R. 1321.57(c) and 1321.61(b); and

(e) Review and consider comments received regarding program plans, budgets, policies, and general initiatives and make changes if feasible and in the best interests of those individuals for

VOLUME 41, NUMBER 10 – APRIL 1, 2015

whom the programs are designed.

Section 7. Responsibilities of a Provider Agency. (1) A provider agency shall:

(a) Adhere to the contractual agreement, state and federal regulations, and department policy;

(b) Provide for each employee providing services funded through the department a comprehensive training course that shall be:

1. Monitored by the provider agency through record review; and
2. Reviewed or monitored by the DAIL through records maintained by the provider agency; and

(c) Verify participant or applicant eligibility for DAIL funded programs only once even though the participant may receive multiple services through state or federal funding sources.

(2) Participant records shall include the following information:

(a) The participant's age or birth date if age is an eligibility requirement;

(b) Documentation of the method used to verify the reported age;

(c) The staff involved in the verification process;

(d) Other eligibility determinants; and

(e) Verification of other eligibility determinants.

(3) The provider agency shall conduct monitoring and evaluation of services and shall:

(a) Permit staff of the Cabinet for Health and Family Services, persons acting for the cabinet, and staff designated by appropriate federal agencies to monitor and evaluate programs and activities performed and administered by the provider agency and subcontractors for which the department has administrative responsibility;

(b) Respond to monitoring reports including submission of a corrective action plan;

(c) Be responsible for fiscal or program exceptions established by evaluation, monitoring, or audit and promptly settle monitoring, fiscal, and program audit exceptions by:

1. Making direct payment;
2. Accepting reduction of future reimbursement; or
3. Other methods approved by the Cabinet for Health and Family Services;

(d) Furnish appropriate technical assistance to, and conduct an annual evaluation of, the effectiveness of program outcomes;

(e) Assess services to determine compliance with contractual agreement and with applicable federal and state requirements;

(f) Submit written corrective action or recommendations regarding on-site monitoring visits and reports to the service providers as applicable;

(g) Require the service provider to have provision for the interview of clients by persons and agencies listed in paragraph (a) of this subsection and the provider agency, except if confidentiality requirements are applicable; and

(h) Review subcontractors' forms and procedures and forward a copy of the information to the DAIL prior to the implementation of the contract for final approval, if applicable.

(4) Each provider agency shall have a policy for denial, suspension, or reduction of services to eligible persons, which shall:

(a) Be maintained on file at the provider agency and be accessible for monitoring purposes;

(b) Specify, at a minimum, that if services for a client or participant are denied, suspended, or reduced, one (1) of the following situations shall be present and documented:

1. Funds are no longer available or are reduced;
2. The service level is no longer needed;
3. Prioritization and needs determination indicate that the client no longer meets the criteria established for receiving services;
4. The client refuses to follow the service plan or plan of care;

or

5. The client or family member has exhibited abusive, intimidating, or threatening behavior and the client or representative is unable or unwilling to comply with a corrective action plan; and

(c) Include notification to a client of the right to request an appeal based on the denial, suspension, or reduction of services to an eligible person as listed in paragraph (b)2. through 5. of this subsection in accordance with 910 KAR 1:140.

(5) A provider agency shall adhere to the procurement requirements as follows:

(a) Promote open and free competition among qualified competitors;

(b) Not restrict or eliminate competition by placing unreasonable or unnecessary requirements on potential bidders;

(c) Establish procurement procedures which take into account the federal, state, and local requirements and include:

1. A method for resolving protests, disputes, and claims;
2. A written code or standards of conduct;
3. A review process to avoid unnecessary purchases or duplicative items;

4. Affirmative action standards that encourage contracting with minority-owned small businesses;

5. A method for procurement; and

6. Evaluation and selection criteria; and

(d) Formally advertise programs and services.

(6) If the provider agency chooses to utilize noncompetitive negotiations, it shall:

(a) Clearly document and maintain on file that:

1. Only one (1) responsible provider is available, capable, and qualified to provide the service; and

2. By using noncompetitive negotiations, open and free competition shall not be restricted;

(b) Maintain records sufficient to detail the significant history of the procurement; and

(c) Provide, upon request and prior to subcontracting, copies to the department supporting noncompetitive negotiations.

(7) A provider agency shall comply with the program reporting requirements of the contractual agreement or the following as applicable:

(a) A quarterly program performance report shall be submitted to the department fifteen (15) calendar days after each quarter in accordance with format and instructions provided by the department;

(b) An annual program performance report shall be submitted to the department for the federal fiscal year October 1 - September 30 in accordance with format and instructions provided by the department;

(c) Homecare reporting and entry into the statewide data system shall be in accordance with 910 KAR 1:180;

(d) A monthly meal count report for Title III and Homecare shall be submitted to the department by the contractual deadline; and

(e) Title V reporting and entering into the statewide data system shall be in accordance with 910 KAR 1:200.

(8) The provider agency conducting assessments shall complete an assessment within seven (7) calendar days of referral unless:

(a) Funding is not available to provide a service; and

(b) The individual is placed on the waiting list.

(9) The provider agency shall assure that a written uniform system is in place for maintenance of waiting lists and shall follow these guidelines:

(a) Each waiting list for services shall be reported to the department as part of the quarterly program performance report;

(b) The waiting list shall be updated monthly and a new DAIL-GA-01 Priority Screening Tool completed if there is a change in needs;

(c) The system shall be based on a method to prioritize applicants;

(d) An applicant shall be advised of the procedures and method of facilitating the waiting list and provided with the written procedures upon request;

(e) An applicant who is determined to be potentially eligible based on screening information gathered by the designated agency staff may be placed on a waiting list; and

(f) Once funding is available for a service, the individual on the waiting list with the highest priority screening score on the DAIL-GA-01 Priority Screening Tool shall be assessed within seven (7)

VOLUME 41, NUMBER 10 – APRIL 1, 2015

calendar days.

(10) Each provider agency may use its own definition of equipment as long as it includes tangible personal property having a useful life of at least one (1) year and a unit cost of \$500 or more.

(a) Equipment records shall be current and shall contain at least the following information:

1. Description of the item;
2. Serial number;
3. Source of funds used to purchase the item;
4. Percentage per source and program of the cost;
5. Acquisition cost and date;
6. Unit cost;
7. Location, use, and condition of the equipment;
8. Information on the disposition of the item; and
9. The replacement schedule of the equipment being replaced,

if applicable.

(b) There shall be a system to prevent loss, damage, or theft.

(c) There shall be adequate maintenance procedures to keep equipment in good condition.

(d) Purchase of equipment with a unit cost of \$500 or more shall require prior approval from the DAIL.

(e) Replaced equipment may be:

1. Traded in; or
2. Sold and the proceeds applied to the acquisition cost.

(f) Equipment with a unit cost of \$1,000 or more shall be disposed of, not replaced, and the granting agency may require transfer of the equipment and title to an eligible party.

(g) Equipment may be sold if approved by the granting agency.

(h) If equipment is sold, the federal share of the proceeds may be applied to the program as program income but if the federal share is not applied to the program as program income, the federal share, less selling expenses, shall be returned to the federal government or an eligible nonfederal party named by the DAIL.

(i) The provider agency shall agree to the transfer of equipment and supplies with a value of less than \$1,000 to a new provider if:

1. A new provider is selected:

- a. As a result of competition; or
- b. Due to a contract being terminated; and

2. The transfer is made within thirty (30) days from the date of receipt of notice from the department made by:

- a. Certified mail; or
- b. Return receipt requested.

(j) Equipment and supplies shall be transferred to the DAIL if no new provider has been secured.

Section 8. Record Check. (1) An applicant for employment or a volunteer with direct client contact shall authorize the provider agency to conduct a records check through the following:

(a) A criminal record check through the Kentucky Justice Cabinet, Administrative Office of the Courts, or a national criminal record check;

(b) The Central Registry;

(c) The Adult Protective Services Caregiver Misconduct Registry; or

(d) The Nurse Aid Abuse Registry.

(2) An applicant or volunteer with a criminal record may be employed only with the approval of the executive director of the provider agency if the individual has not been found guilty of the following:

(a) A violent crime as defined by KRS 439.3401;

(b) Abuse, neglect, or exploitation of another person, including assault;

(c) Felony theft offense; or

(d) Felony drug offense.

Section 9. Corrective Action. (1) The department shall issue corrective action if a provider agency is not fulfilling its contract or is non-compliant with program requirements. Upon identification of the deficiency, the department shall:

(a) Notify the provider agency of the requirement to submit a written corrective action plan within the time frame specified by the department;

(b) Review for approval or revision the corrective action plan

submitted by the provider agency which shall include:

1. How the deficiency will be corrected;

2. Steps to ensure the deficiency will not reoccur; and

3. The timeline for full compliance;

(c) Monitor to ensure the corrective action plan was initiated and completed to resolve the deficiency; and

(d) Notify other licensing or regulatory agencies if the deficiency exists within their jurisdiction.

(2) A provider agency shall submit documentation to confirm the deficiency was resolved.

(3) If the provider agency continues to be in noncompliance, the department staff shall:

(a) Notify the provider agency of the continuing problem or deficiency;

(b) Advise the commissioner of the DAIL of the problem and make a recommendation for action; and

(c) Notify the provider agency of the action that shall be taken by the department based on continued non-compliance.

Section 10. Suspension of Funding or Termination of Contract.

(1) The department may temporarily suspend operations or terminate the contract award in whole or in part if the provider agency or service provider fails to adhere to the following:

(a) Contract award stipulations;

(b) Federal and state laws and regulations;

(c) Department policies and procedures;

(d) A department approved corrective action plan; or

(e) Performance goals and deliverables.

(2) To suspend operations or terminate a contract, the department shall, thirty (30) days prior to the effective date:

(a) Notify the provider agency in writing of the action being taken;

(b) Provide the provider agency with the reason for the action;

(c) Specify the conditions of the suspension;

(d) Inform of the effective date of the suspension; and

(e) Inform the provider agency of the right to appeal the decision.

(3) The department shall grant to a provider agency whose funding has been suspended in whole or in part or whose contract has been terminated as a result, an opportunity for a hearing in accordance with the provision set forth in 910 KAR 1:140.

(4) The department may:

(a) Temporarily withhold cash payments pending an approved corrective action plan by the provider agency or pending a decision by the department to terminate the contract;

(b) Disallow both the use of funds and any applicable matching funds for all or part of the cost not in compliance;

(c) Wholly or partly suspend or terminate the contract award;

(d) Withhold future awards; or

(e) Exercise any other remedies that may be legally available.

(5) The department may impose additional requirements for provider agencies for the following:

(a) History of poor performance;

(b) Financial instability;

(c) A management system that does not meet the prescribed standards; or

(d) Not conforming to the terms and conditions of previous contract awards.

(6) Costs to a provider agency resulting from obligations incurred during the suspension or after termination of a contract award shall not be allowable unless the department:

(a) Expressly authorizes them in the notice of suspension or termination of contract award; or

(b) Subsequently determines the expenses:

1. Are necessary and not reasonably avoidable;

2. Result from obligations which were properly incurred by the provider agency before the effective date of the suspension or termination;

3. Are not in anticipation of the suspension or termination and in the case of a termination are non-cancellable; and

4. Would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(7) In suspending operations or terminating a contract, the department shall:

(a) Determine the amount of unearned state and federal funds the provider agency has on hand and interest earned, if any;

(b) Request a return of funds for all unearned or unallowable funds received by the provider agency from the department; and

(c) Designate a new provider agency to ensure there is no break in the provision of services to consumers.

(8) Upon suspension or termination, the provider agency shall be required to submit all financial, programmatic, and other reports pursuant to the terms and conditions of the contract.

(9) If the suspension of operations continues for three (3) consecutive months in a budget year:

(a) Funding of operations shall be terminated;

(b) Monetary assistance from the department shall cease in whole or in part under a contract at a time prior to the date of completion; and

(c) The department shall follow the requirements of subsection (4) of this section.

(10) The department may, at its discretion, reinstate the suspended operations if it determines that the provider agency has come into compliance with the contract, federal and state regulations, and department policies.

(11) The department shall reimburse the provider agency according to the terms and conditions of the contract for allowable program activities and cost upon reinstatement of operations.

(12) Operations may resume:

(a) Immediately upon notification; or

(b) Within the time period as designated by the department.

(13) Costs accrued for program operations while a program is suspended shall not be reimbursed.

(14) The obligational authority unearned at suspension shall become available for earning by the project at the previously established matching ratio.

(15) Termination of operational obligation or authority shall result in:

(a) Withdrawal of AAAIL designation that shall comply with subsection (13) of this section; or

(b) Withdrawal of a contract for services.

(16) The department shall withdraw the AAAIL designation or contract if, after reasonable notice and opportunity for a hearing, the department finds that:

(a) The AAAIL or provider agency does not meet the requirements set out in Section 5 or Section 7 of this administrative regulation;

(b) The plan or plan amendment is not approved;

(c) There is substantial failure in the provision or administration of an approved area plan to comply with provisions of the area plan requirements under the Older Americans Act; or

(d) There is a request by the provider agency.

(17) If the department withdraws the AAAILs designation or contract, it shall:

(a) Notify the administrator of the ACL and the CHFS secretary in writing of its action;

(b) Provide a plan for the continuity of planning and services in the affected PSA; and

(c) Designate a new AAAIL or provider agency in the PSA.

(18) To ensure continuity of planning and services in a PSA, the DAIL may, for a period of up to 180 days after its final decision to withdraw designation of an AAAIL or contract with a provider agency:

(a) Perform the responsibilities of the AAAIL or provider agency; or

(b) Assign the responsibilities of the AAAIL or provider to another agency in the PSA.

(19) If necessary, the administrator of the ACL may extend an additional 180 days if the state agency:

(a) Requests an extension; and

(b) Demonstrates to the administrator of the ACL a need for the extension.

Section 11. Incorporation by Reference. (1) The "DAIL-GA-01 Priority Screening Tool", November 2014, is incorporated by

reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.["Area development district" means one (1) of the fifteen (15) regional planning and development agencies with which the Office of Aging Services contracts for the local delivery of aging services.

(2) "Area agency on aging" means that local agency designated under the provisions of Title III of the Older Americans Act to administer funds received under that title for a given planning and service area.

(3) "Administration on Aging" means that federal agency housed within the Office of the Secretary of Health and Human Services which is responsible for the administration of grant awards to state units on aging under Title III of the Older Americans Act.

(4) "Area plan" means the plan submitted by an area agency on aging for the approval of the Office of Aging Services which releases funds under contract for the delivery of services within the planning and service area.

(5) "Fidelity bond" means a bond indemnifying the recipient against losses resulting from the fraud or lack of integrity, honesty, or fidelity of one (1) or more employees, officers or other person holding positions of trust.

(6) "In-kind resources" means the value of property or services which benefit a grant supported project or program and which are contributed by nonfederal third parties without charge to the grantee.

(7) "Local cash match" means cash donated to pay costs of centers or sites or services.

(8) "Office" means the Office of Aging Services.

(9) "Planning and service area" means that multicounty geographical entity in which a given area agency on aging is responsible for the delivery of aging services.

(10) "Program income" means the gross income earned by a contractor from activities part or all of the cost of which is either borne as a direct cost by federal funds or counted as a direct cost towards meeting a cost sharing or matching requirement of federal funds.

(11) "State plan" means the formal application of the office for federal Title III funds under the Older Americans Act and provides a basis for the expenditures of these funds.

Section 2. The Office of Aging Services shall distribute federal and state funds for aging programs through contract allocation under authorization of:

(1) Title III of the Older Americans Act, which shall be distributed by formula:

(a) Funds authorized under the following categories shall be for the purpose of assisting the office and the area agencies on aging to develop or enhance for older persons, comprehensive and coordinated community-based services throughout the state:

1. State administration;

2. AAA - administration;

3. State long term care ombudsman, Title III-B;

4. Supportive services, Title III-B;

5. Congregate meals services, Title III-C-1;

6. Home delivered meals services, Title III-C-2;

7. In home services, Title III-D;

8. Special needs services, if funds are available, Title III-E;

9. Elder abuse services, if funds are available, Title III-G;

10. Preventive health services, if funds are available, Title III-F;

11. Outreach services, if funds are available.

(b) Except for the Office of the Long Term Care Ombudsman and state administration, the office shall award the available funds to designated area agencies on aging according to the intrastate funding formula determined by the office after consultation with the area agencies on aging in the state and publication of the formula by the office for review and comment by older persons and the general public.

(2) The Acts of the General Assembly, Kentucky Homecare Program, as amended, and a grant from the United States

Department of Health and Human Services, the office shall distribute available state and federal funds to area development districts according to a funding formula determined by the office. The contracting agency may provide services directly, subcontract for all or part of the services, provide the services through other funding sources or through volunteer efforts. Regardless of the method, the contracting agency shall assure availability of the following services based on approved definitions under the homecare program:

- (a) Assessment;
- (b) Case management;
- (c) Chore;
- (d) Escort;
- (e) Home-delivered meals;
- (f) Home health aide;
- (g) Homemaker and home management;
- (h) Homemaker personal care;
- (i) Home repair;
- (j) Respite.

(3) Title V of the Older Americans Act, the office shall distribute federal funds made available by the United States Department of Labor for the provision of useful part-time employment to low-income persons, fifty-five (55) years of age or older. The office shall allocate funds made available to designated agencies according to number of employment slots in each area. Designated agencies shall administer these funds either directly or by contract.

(4) Funds authorized under other federal and state programs shall be for the purpose of assisting the office to develop or enhance for older persons, comprehensive and coordinated community-based services throughout the planning and service areas. The office shall allocate funds made available to designated area agencies on aging according to need and population, through contracts with area development districts. Designated agencies shall administer these funds either directly or by contract.

Section 3. Responsibilities of the Office.

(1) Advisory councils. The office shall:

- (a) Utilize the Institute for Aging as one (1) of the methods to obtain citizen participation;
- (b) Cooperate with the Council for Social Services as appropriate in accordance with its mandate; and
- (c) Participate on the Long-Term Care Coordinating Council and provide input in the area of long-term care for the elderly.

(2) The office shall advocate for older persons in the Commonwealth pursuant to the Older Americans Act regulation 45 C.F.R. 1321.13 and shall:

- (a) Review, monitor, evaluate and comment on federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies and actions which affect or may affect older individuals and recommend changes in these which the office deems appropriate;
- (b) Provide technical assistance to agencies, organizations, associations or individuals representing older persons;
- (c) Review and comment, upon request, on applications to state and federal agencies for assistance relating to meeting the needs of older persons;
- (d) Conduct public hearings on the needs of older persons;
- (e) Represent the interests of older persons before appropriate legislative, executive branch and regulatory bodies in the Commonwealth;
- (f) Establish and operate the long-term care ombudsman program in accordance with the provisions of Section 307(12)(A) of the Older Americans Act; and
- (g) Require area agencies on aging to indicate in area plans advocacy activities in which they shall engage on behalf of the elderly.

(3) The office shall encourage the appointment of older Kentuckians to boards and commissions in state and local governments in an effort to actively involve these individuals in the development of services and programs for the elderly. The office shall conduct the following activities in meeting this responsibility:

- (a) Work with citizens advocate groups participating on boards and commissions;

(b) Assist agencies and organizations seeking appointees by identifying potential older people to serve on boards or commissions and referring them to the appropriate agencies or individuals;

(c) Obtain information from agencies and organizations on qualifications for selection to boards or commissions, periods of service, and appointment dates; and

(d) Transmit information on qualifications for membership or participation, period of service, and appointment and expiration dates to senior citizen organizations, service providers, and area agencies on aging for the future appointment of older people to boards and commissions.

(4) Area agencies on aging designation and funding.

(a) The Office of Aging Services shall designate planning and service areas (PSAs) in accordance with the provisions of Section 305(a)(1)(E) of the Older Americans Act and shall consider:

- 1. The geographical distribution of individuals age sixty (60) and older in the Commonwealth;
- 2. The incidence of the need for supportive services, nutrition services, multipurpose senior centers and legal assistance;
- 3. The distribution of older individuals who have the greatest social need with particular attention to low-income minority individuals residing in these areas;
- 4. The distribution of older Indians residing in these areas;
- 5. The distribution of resources available to provide services or centers;
- 6. The boundaries of existing areas within the Commonwealth which were drawn for the planning or administration of supportive services programs;
- 7. The location of general purpose local government within the Commonwealth with regard to its PSA-wide service delivery capability; and
- 8. Other factors deemed relevant.

(b) In designating within each planning and service area (PSA) a public or private nonprofit agency or organization as the area agency on aging the office shall:

- 1. Designate in accordance with Section 305(b)(5)(C) of the Older Americans Act according to the following:
 - a. An established office of aging which is operating within a designated planning and service area and has a PSA-wide service capability;
 - b. An office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of the unit;
 - c. An office or agency designated by the appropriate chief elected officials of combinations of units of general purpose local government to act only on behalf of a combination for this purpose; or
 - d. A public or nonprofit private agency in a planning and service area or a separate organizational unit within the agency which is under the supervision or direction for this purpose of the designated state agency and which can and shall engage only in the planning or provision of a broad range of supportive services, or nutrition services within the planning and service area.

2. If designating a new area agency on aging, give right of first refusal to a unit of general purpose local government; and

3. Give preference, if the unit of general purpose local government declines designation, to an established office on aging in conformity with Section 305(e)(5) of the Older Americans Act.

(c) The office shall develop and make known to the area agencies on aging procedures for and conditions under which area plan funding may be suspended. The following shall be applied:

1. The suspension of funding authority to an area agency on aging by the state agency temporarily suspends federal assistance under the area plan pending corrective action by the area agency on aging or pending a decision by the office to terminate the contract;

2. If conditions warrant, the office may suspend area plan operations in whole or in part. The conditions shall result from the area agency on aging's failure to comply with contract award stipulations, standards or conditions;

3. To suspend area plan operations, the office shall notify the

VOLUME 41, NUMBER 10 – APRIL 1, 2015

area agency on aging in writing of the action being taken, the reason for the action and the conditions of the suspension. This notice shall be given at least thirty (30) days prior to the effective date of suspension and shall note the right of the area agency on aging to appeal the decision and the procedures to be followed for an appeal;

4. The office shall grant to an area agency on aging whose area plan has been suspended in whole or in part an opportunity for a hearing in accordance with the provisions set forth in Section 15 of this administrative regulation;

5. The office may, at its discretion, allow federal financial participation in necessary and proper costs which the area agency on aging may not reasonably avoid during the period of suspension;

6. In suspending area plan operations, the office shall determine the amount of unearned Title III funds the area agency on aging has on hand. The anticipated length of suspension, the extent of area plan operations suspended, and the amount of funds balance on hand shall determine whether the office shall require the balance to be returned;

7. The office may, at its discretion, reinstate the suspended area plan operations if it determines that conditions warrant;

8. Federal participation in reinstated area plan operations may resume immediately upon reinstatement, but not for costs accrued for those area plan operations while they were suspended. The obligational authority unearned at suspension again becomes available for earning by the project at the previously established matching ratio; and

9. If the suspension of area plan operations continues for three (3) consecutive months in a budget year, federal funding of area plan operations is automatically terminated.

(d) The termination of funding means the cancellation of state or federal assistance, in whole or in part, under a contract at a time prior to the date of completion.

1. The office may terminate state or federal support for an area plan prior to the end of an approved budget year or project period if:

- a. The area development district violates the conditions under which the contract was approved;
- b. Program performance is inadequate; or
- c. Nonfederal resources are not available.

2. If the office terminates funding for an area plan, the office shall:

- a. Notify the area development district in writing of the actions being taken and the reasons for the action. This notice shall be given at least thirty (30) days prior to the effective date of termination;
- b. Specify reports to be completed;
- c. Notify the area agency on aging of the right to appeal; and
- d. The procedure to be followed for appeal.

3. The office shall grant to the area development district whose area plan has been terminated in whole or in part an opportunity for a hearing.

4. The office or the area development district may terminate the contract in whole, or in part, if both parties agree that the continuation of the project may not produce beneficial results commensurate with the further expenditure of funds. The two (2) parties shall agree upon the termination conditions, including the effective date and, if partial termination, the portion to be terminated. The area development district shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Office of Aging Services shall allow full credit to the area development district for the federal share of the noncancellable obligations, properly incurred by the area development district prior to termination.

5. A termination of area plan obligation or authority which leads to withdrawal of designation shall comply with paragraph (e) of this subsection:

(e) The office shall withdraw the area agency on aging designation if, after reasonable notice and opportunity for a hearing, the office finds that:

1. The area agency on aging does not meet the requirements

set out in paragraph (b)1 through 3 of this subsection;

2. The plan or plan amendment is not approved;

3. There is substantial failure in the provision or administration of an approved area plan to comply with provisions of the area plan requirements under the Older Americans Act; or

4. There is a request by the area development district.

(f) If the office withdraws the area agency on aging's designation, it shall:

1. Notify the commissioner of the administration on aging in writing of its action;

2. Provide a plan for the continuity of services in the affected planning and service area; and

3. Designate a new area agency on aging in the planning and service area in a timely manner.

(g) If necessary to ensure continuity of services in a planning and service area, the Office of Aging Services may, for a period of up to 180 days after its final decision to withdraw designation of an area agency on aging:

1. Perform the responsibilities of the area agency on aging; or

2. Assign the responsibilities of the area agency on aging to another agency in the planning and service area.

(h) If necessary the commissioner of the administration on aging may extend for a period of up to an additional 180 days the limit in paragraph (e) 3 of this subsection if the state agency:

1. Requests an extension; and

2. Demonstrates to the commissioner of the administration on aging a need for the extension.

(i) The office shall initiate the designation withdrawal process and shall:

1. Notify the area agency on aging of intent to withdraw designation, citing influencing factors and outlining steps to be taken in appeal of the intent;

2. Extend to the area agency on aging a minimum of thirty (30) days in which to respond;

3. Following the area agency on aging's response, if appropriate, the office may require of the area agency on aging the submission within an additional thirty (30) days a corrective action plan which may avert withdrawal of designation;

4. If the area agency on aging requests a state hearing, the office shall assist in the facilitation of the hearing; and

5. Following the appeal process, the office shall notify the area agency on aging in writing of the hearing.

(j) Close-out procedures for the grant. If federal support for an area plan is terminated, the following shall apply:

1. The area agency on aging shall immediately refund to the office unencumbered balance of cash advanced to the area agency on aging;

2. The area agency on aging shall complete and submit to the office, within sixty (60) days after the date of completion or termination, a final program and financial report and other financial or performance reports required as a condition of the grant;

3. The office shall make a settlement for the upward or downward adjustments to the federal share of costs after these reports are received;

4. The area agency on aging shall dispose of equipment and supplies purchased with Title III funds in accordance with established policies of the Cabinet for Health Services. Funds realized from the sale of this equipment or supplies shall be an adjustment in program costs;

5. If a final audit has not been performed prior to close-out of the grant, the office shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit; and

6. The area agency on aging shall provide for the close-out of all subcontracted service providers in accordance with the Cabinet for Health Services policies.

(5) The office shall coordinate and, as appropriate, enter into agreements with departments within the Cabinet for Health Services, Corrections Cabinet, Justice Cabinet, Administrative Office of the Courts, Public Advocacy, the Kentucky Department of Agriculture, Department of Transportation, and other state offices, study groups, and councils in the planning for and provision of health and supportive services to the elderly and to appropriately

utilize funding sources. The office shall encourage area agencies on aging in advocacy roles to undertake activities on a regular basis which are designed to facilitate the coordination of plans and activities with other public and private agencies and organizations.

(6) The office shall conduct, within budget limitations, activities to implement training and education programs which include the following:

(a) Conduct annual assessments to informally identify training needs and develop correlating plans;

(b) Identify and review resources available to meet training needs;

(c) Develop a comprehensive education and training plan;

(d) Seek additional resources to implement the plan;

(e) Effect interagency coordination for the provision of specialized training;

(f) Facilitate and assist the efforts of higher education in statewide forums of a gerontological orientation;

(g) Coordinate education programs with private, public, governmental and educational organizations and institutions;

(h) Provide and coordinate training opportunities for personnel of agencies and programs utilizing aging services' funding;

(i) Provide training to area agencies and local programs on self-evaluation and monitoring; and

(j) Provide training as part of the state training plan including ongoing technical assistance and annual program evaluation.

(7) The office shall include assurances in the state plan that preference is given to older persons in greatest social or economic need in the provision of services under the plan and shall utilize the following methods for preference to older persons with the greatest economic or social need and low-income minority:

(a) After consultation with the area agency on aging, develop and use an intrastate funding formula which shall reflect the proportion among the planning and service areas of persons age sixty (60) and over in greatest economic or social need with particular attention to low-income minority individuals;

(b) Seek input from area agencies on aging and service providers in the development of methods for giving preference;

(c) Review priorities for services and needs assessment data in order to determine the specific types of services most needed by the target population;

(d) Encourage the location and access to senior centers and services in geographic areas which contain known populations of older persons with greatest economic or social need;

(e) Encourage local coordination efforts with those agencies or organizations which provide services or entitlements to the target population; and

(f) Monitor and evaluate area agencies on aging to ensure services are targeted to meet the needs of older persons with the greatest economic or social need, with particular attention to low-income minority individuals.

(8) In compliance with 45 C.F.R. 1321.17(f)(9), the office shall:

(a) Have and employ appropriate procedures for data collection from area agencies on aging to permit the state to compile and transmit statewide data requested by the commissioner on aging in a form the commissioner directs on an annual basis.

(b) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of this data to the agency of the state responsible for licensing or certifying long-term care facilities in the state and to the commissioner on aging on an annual basis.

(c) Require each area agency on aging to assure that providers of services shall provide the area agency on aging in a timely manner with statistical and other information which the area agency on aging requires to meet its planning, coordination, evaluation and reporting requirements.

(d) Not request, nor shall an area agency on aging request, for the purpose of Older Americans Act reporting, information or data from providers which is not pertinent to services furnished pursuant to the Older Americans Act or a payment made for these services.

(9) Each fiscal year the office in order to meet the required

nonfederal share applicable to its allotments under Title III of the Older Americans Act, shall expend under the state plan for both services and administration at least the average amount of state funds it expended under the plan for the three (3) previous fiscal years. Funds made available under Title III Part D shall be in addition to, and shall not be used to supplant, funds that are or may be expended under a federal, state, or local law by a state or unit of general purpose local government, including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of these victims.

(10) The office shall monitor the performance of programs and activities initiated under the Older Americans Act for quality and effectiveness and shall monitor other programs for which the office has administrative responsibility.

(a) In compliance with the monitoring and evaluation responsibilities the office shall:

1. Monitor and assess services as approved in area plans to determine compliance with contract requirements, approved area plans, and with applicable federal and state statutory requirements;

2. Conduct annual or more frequently, if indicated on-site monitoring visits to the area development districts;

3. Conduct on-site visits to assess and approve potential new service delivery sites;

4. Monitor, through on-site visits, the implementation of new programs;

5. Conduct on-site visits if problems occur to assess and make recommendations for improvement and to bring the program into compliance with the contract;

6. Conduct on-site follow-up visits, as appropriate, to assure that the plan of correction has been implemented;

7. Conduct monitoring through the review and analysis of reports submitted to the office by the area agencies on aging;

8. Submit written evaluation of findings with recommendations regarding on-site monitoring visits to the area development district;

9. Submit written evaluation of findings and recommendations regarding review and analysis of reports to the area development districts, if indicated; and

10. Provide training to area agencies on aging and local programs on self-evaluation and monitoring.

(b) The office shall take corrective action if a contractor is not fulfilling its contract.

1. Upon identification of the deficiency, the office shall:

a. Notify the contractor, describing the precise nature of the problem, identify the corrective action desired and the time frame in which the action shall be taken or the problem shall be resolved. The contractor shall submit a written corrective action plan as specified by the office. If the contractor deficiencies appear to endanger or seriously affect the health or welfare of participants or staff, corrective measures shall be taken immediately;

b. Monitor and follow up, to assure that action was taken and the problem or deficiency resolved. The contractor shall submit documentation to confirm the problem or deficiency was resolved; and

c. Notify other licensing or regulatory agencies if the problems are within their jurisdiction.

2. If the contractor continues to be in noncompliance, the following procedures shall be implemented:

a. The office shall notify the contractor of the continuing problem or deficiency and the action to be taken.

b. The office shall advise the Executive Director of the Office of Aging Services of the problem and make a recommendation for the Cabinet for Health Services action.

c. The contractor shall be advised of the actions that shall be taken if noncompliance continues. Actions include but are not limited to the following: renegotiation of the contract, employment of financial sanctions or cancellation of the contract.

(11) The needs assessment and program analysis shall provide another means of coordination of needs and services, and shall provide area-specific information and a statewide summary. Persons age sixty (60) and over who are frail, homebound by reason by illness or incapacitating disability, or otherwise isolated

VOLUME 41, NUMBER 10 – APRIL 1, 2015

shall be given priority in the delivery of services. Activities which shall be conducted to evaluate and determine the needs, specific groups within the aging population, and services which shall be addressed or receive top priority include the following:

(a) Review and analyze the findings of the needs assessment and other surveys and documents that provide information regarding the needs of the elderly;

(b) Compile and analyze data obtained from area and local program plans;

(c) Conduct public hearings and compile and analyze data obtained;

(d) Review and analyze census and other data which reflect the status of the elderly;

(e) Gather and analyze client data from the homecare program and other applicable information systems;

(f) Analyze program performance reports;

(g) Analyze financial reports;

(h) Conduct literature search;

(i) Distribute needs assessment information related to the delivery or planning of services to the elderly; and

(j) Establish statewide service priorities based on the needs assessment.

(12) The office, as the state unit on aging, shall have an adequate number of qualified staff to carry out the functions prescribed in 45 C.F.R. 1321.9 of the Older Americans Act regulations and other programs for which the office has administrative responsibility and shall, subject to the requirements of merit employment systems of state and local governments, give preference to individuals aged sixty (60) or older for staff positions in state and area agencies on aging for which individuals qualify.

(13) The office shall, if appropriate, utilize public hearings as one (1) method of obtaining both proactive and reactive community and consumer participation in prioritizing and evaluating activities and projects carried out under the state plan. The office shall:

(a) Schedule a minimum of one (1) public hearing annually for the purpose of evaluating activities and projects carried out in the state plan;

(b) Specify the inclusion of an evaluation of the state plan's effectiveness in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals;

(c) If appropriate, schedule public hearings for the purpose of receiving community and consumer participation in the development and implementation of service activities;

(d) Require of the area agency on aging a timely conducted public hearing prior to the consideration of a request of the office for a waiver from a service provision responsibility required in the area plan; and

(e) Schedule, advertise and conduct public hearings it deems appropriate in a manner designed to encourage, enhance and facilitate community and consumer participation.

(14) The office shall consider the views of older persons and the general public in developing and administering the state plan and shall:

(a) Utilize methods which may include but are not limited to public hearings, in receiving public and consumer participation in identifying service needs and establishing funding priorities prior to the submission of the state plan for federal approval;

(b) If appropriate, advertise the date, time, location and purpose of each public hearing in at least one (1) major newspaper in the planning and service area in and for which the hearing is being held;

(c) Respond to requests of the Institute for Aging for information and submit for its review and comment proposed plans, budgets, programs, policies and general initiatives;

(d) Elicit input from appropriate external sources as opportunities present themselves;

(e) Require area agencies on aging to develop procedures for receiving community and consumer participation in the planning and service delivery process in conformance with 45 C.F.R. 1321.57(c) and 1321.61 (b); and

(f) Review and consider comments received regarding program plans, budgets, policies and general initiatives, and make changes

if feasible and in the best interests of those individuals for whom the programs are designed.

(15) Required services:

(a) The office shall assure that the area agency on aging allots an adequate proportion of its funding under Title III-B, excluding amounts waived or used for administration, for the provision of the following categories of services:

1. Services associated with access to services for transportation, outreach, and information and referral;

2. In-home services for homemaker, home health aide, visiting and telephone reassurance, chore maintenance, supportive services for families of elderly victims of Alzheimer's disease and related disorders; and

3. Legal assistance.

(b) If the office proposes to grant a waiver to an area agency on aging:

1. The office shall publish the intention to grant a waiver together with the justification for the waiver at least thirty (30) days prior to the effective date of the decision to grant the waiver;

2. An individual or service provider from the area with respect to which the proposed waiver applies may request a hearing before the state agency on the request for waiver; and

3. The office shall afford the individual or service provider an opportunity for a hearing within the thirty (30) day period prior to the effective date of the decision to grant the waiver.

(c) If the office grants a waiver of the requirement the following information shall be provided to the commissioner, administration on aging (AOA):

1. A report regarding the waiver that details the demonstration made by the area agency on aging to obtain the waiver;

2. A copy of the record of the public hearing conducted which indicates the notification of the interested parties and the testimony of these individuals; and

3. A copy of the record of a public hearing conducted by the office for an individual or service provider from the area to which the waiver applies.

(16) A waiver of the office administration and program requirements based on federal or state laws and regulations shall be allowed by the office only if there is federal or state statutory provision to grant a waiver.

(17) The office shall conduct joint meetings with the area agencies on aging (AAAs). The office, as the state unit on aging, is mandated to coordinate statewide planning and development of activities, and provide technical assistance to each area agency on aging to ensure effective procedures for coordination of programs within the planning and service area and shall:

(a) Notify the area agencies on aging in writing in advance of the date the joint meeting shall take place.

(b) Solicit input from the area agencies on aging as to the topics and concerns to address and discuss at the joint meeting.

Section 4. Area Agencies on Aging Responsibilities:

(1) Each area agency on aging shall establish an advisory council as follows:

(a) Functions of council. The area advisory council shall carry out advisory functions which further the area agency's mission of developing and coordinating community-based systems of services for older persons in the planning and service area. The council shall advise the agency relative to:

1. Developing and administering the area plan;

2. Conducting public hearings;

3. Representing the interest of older persons; and

4. Reviewing and commenting on community policies, programs and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons.

(b) Composition of council. The council shall include individuals and representatives of community organizations who shall help to enhance the leadership role of the area agency in developing community-based systems of services. The advisory council shall be made up of:

1. More than fifty (50) percent older persons, including minority individuals who are participants or who are eligible to participate in

VOLUME 41, NUMBER 10 – APRIL 1, 2015

programs under the Older Americans Act;

2. Representatives of older persons;

3. Representatives of health care provider organizations, including providers of veterans' health care if providers of veterans' health care are located in the geographical area development district;

4. Representatives of supportive services providers organizations;

5. Persons with leadership experience in the private and voluntary sectors;

6. Local elected officials; and

7. The general public.

(c) Review by advisory council. The area agency on aging shall submit the area plan and amendments for review and comment to the advisory council before transmittal to the office for approval.

(2) Area agencies on aging shall be required to serve as the public advocate for the development or enhancement of comprehensive and coordinated community-based systems of services in each community throughout the planning and service area. The area agency on aging shall:

(a) Monitor, evaluate, and provide comment on policies, programs, hearings, levies, and community actions which affect older persons;

(b) Solicit comments from the public on the needs of older persons;

(c) Represent the interests of older persons to local-level and executive branch officials, public and private agencies or organizations;

(d) Consult with and support the Commonwealth's long-term care ombudsman program;

(e) Undertake on a regular basis activities designed to facilitate the coordination of plans and activities with other public and private organizations, including units of general purpose local government, with responsibilities affecting older persons in the planning and service area to promote new or expanded benefits and opportunities for older persons;

(f) Undertake a leadership role in assisting communities throughout the planning and service area to target resources from appropriate sources to:

1. Meet the needs of older persons with greatest economic or social need, with particular attention to low-income minority individuals; and

2. Influence the location of services and specialization in the types of services most needed by the above-referenced group; and

(g) Prohibit grantees or contractors from employing a means test for services funded from the area agency on aging.

(3) The area agency on aging shall ensure that service providers verify eligibility of those individuals participating in the Title III programs utilizing the Title III Age Verification and Eligibility form, except for those individuals utilizing only ombudsman, legal, outreach, and information and referral services.

(a) Prior to the implementation of the contract, the area agency on aging shall review with the Title III subcontractors their procedures for documenting participant age or other eligibility determinants.

(b) Subcontractors' records shall include the following information:

1. The participant's age or birth date;

2. The method of verifying the reported age;

3. The staff involved in the verification process;

4. Other eligibility determinants; and

5. Verification of other eligibility determinants.

(c) The area agency on aging shall approve the subcontractor's form and procedures, if other than the state form, and forward a copy of the information to the Office of Aging Services, prior to the implementation of the contract, for final approval.

(d) Require verification of eligibility only once even though the participant may receive both supportive and nutrition services.

(e) Not require verification of eligibility to be updated each fiscal year if the subcontractor maintains the participant's central file or if a new subcontractor makes arrangements for the transfer of the verification information.

(f) Participants who receive services from different

subcontractors need verify eligibility only once under the following conditions:

1. The area agency on aging designates a subcontractor as the primary agency responsible for verifying eligibility and for maintaining and filing the verification information;

2. Other subcontractors may contact the primary agency to confirm that eligibility has been verified. The primary agency may send to the requesting subcontractor a copy of the eligibility verification, which is filed in the record, or may give the information verbally. Verbal confirmation of eligibility shall be documented in the participant's record. The record shall include data specified in paragraph (b)1 through 5 of this subsection.

(4) The area agency on aging shall be the leader relative to aging issues on behalf of older persons in the planning and service area. The agency shall proactively carry out, under the leadership and direction of the Office of Aging Services, a wide range of functions related to the development or enhancement of comprehensive and coordinated community-based systems in, or serving, each community in the planning and service area.

(a) A comprehensive and coordinated community-based system shall:

1. Have a visible focal point of contact for anyone to go or call for help, information or referral on an aging issue;

2. Provide a range of options;

3. Assure that these options are readily accessible to older persons; the independent, semidependent and totally dependent, no matter what their income;

4. Include a commitment of public, private, voluntary and personal resources committed to supporting the system;

5. Involve collaborative decision-making among public, private, voluntary, religious and fraternal organizations and older people in the community;

6. Offer special help or targeted resources for the most vulnerable older persons, those in danger of losing their independence;

7. Provide effective referral from agency to agency to assure that information or assistance is received no matter how contact is made in the community;

8. Evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person;

9. Have a unique character which is tailored to the specific nature of the community; and

10. Be directed by leaders in the community who have the respect, capacity, and authority necessary to convene interested persons, assess needs, design solutions, track overall success, stimulate change and plan community responses for the present and for the future.

(b) For the purpose of assuring access to information and services for older persons, the area agency on aging shall work with community leadership in the planning and service area to designate one (1) or more focal points on aging in each community, as appropriate. The area agency on aging shall:

1. List designated focal points in the area plan;

2. Define "community" as it relates to population served by a given focal point; the definition shall be approved by the office;

3. Give special consideration to developing and designating multipurpose senior centers as focal points;

4. Assure that services financed under the Older Americans Act, in or on behalf of the community shall be either based at, linked to or coordinated with the focal points;

5. Assure access from the focal points to services financed under the Older Americans Act;

6. Work with or work to assure that community leadership works with other applicable agencies and institutions in the community to achieve maximum comprehensive arrayal of, coordination with or access to other services and opportunities for the elderly from the focal points; and

7. Refrain from engaging in an activity which is inconsistent with its statutory mission prescribed in the Older Americans Act or policies prescribed by the state under regulation 45 C.F.R. 1321.11.

(5) Each area agency on aging shall provide for adequate and

VOLUME 41, NUMBER 10 – APRIL 1, 2015

qualified staff to perform its functions and shall:

(a) Function organizationally as prescribed under designation provision of Section 305(b)(5)(C) of the Older Americans Act;

(b) Have on file for review a staffing plan that identifies the number and types of staff assigned to carry out area agency on aging responsibilities and functions;

(c) Indicate in the area plan staffing patterns and relationships if the area agency on aging is housed under an umbrella organization; and

(d) Respond to corrective action initiatives and general information requests of the office if issues arise concerning staffing practices.

(6) Each designated area agency on aging shall prepare and develop, for a specified planning and service area, a plan of duration as determined by the office. Each plan shall be subject to amendment by the area agency on aging upon request of the office and shall include:

(a) Procedures for delivery, through a comprehensive and coordinated system, of an array of supportive, nutrition and other services as may be prescribed under federal, state and local programs and policies;

(b) Description of arrangements with local providers to ensure the delivery of these services and identification of the service providers;

(c) Assurances that categorical service allotments shall be expended in the manner prescribed by policy of the Office of Aging Services;

(d) Designation, if feasible, of multipurpose senior centers as community focal points for comprehensive service delivery;

(e) Procedures for establishment and maintenance of information and referral services to assure access to services;

(f) Procedures for ensuring preferential consideration in the provision of services to older individuals with greatest economic or social needs, targeting low-income minority individuals, in compliance with all federal and state statutory and regulatory provisions and Office of Aging Services policy;

(g) Procedures for identifying for each previous fiscal year the number of low-income minority older individuals in the planning and service area and for describing methods used to satisfy their service needs;

(h) Procedures for outreach efforts which assure service access by eligible individuals and which target the rural, disabled and low-income minority elderly and those general population older persons with greatest social need;

(i) Procedures for conducting periodic evaluation of and public hearings on activities carried out under the area plan;

(j) Procedures for providing technical assistance to service providers and focal points and for an annual evaluation of the effectiveness of outreach;

(k) Procedures for receiving the views of service recipients;

(l) Procedures for serving as the advocate and focal point for the elderly within the community;

(m) Procedures, if needed, for the provision by existing organizations of day care for adults and respite for their families;

(n) Procedures for establishing an advisory council of older individuals, including minority elderly and program participants, representatives of older individuals, local elected officials, providers of veterans health care and the general public, to advise routinely on the development and administration of the area plan and the operations for which it provides;

(o) Procedures for developing and publishing methods by which services, particularly those identified through state policy as access services, are prioritized;

(p) Procedures for effective and efficient coordination of programs and services operated or delivered in accordance with all state and federal statutory and regulatory provisions;

(q) Procedures for facilitating the coordination of community-based long-term care services emphasizing the development of client-centered case management;

(r) Procedures for determining the service needs of abused, neglected and exploited older individuals, and for identifying public and private nonprofit entities involved in prevention, identification and treatment of these individuals;

(s) Procedures which facilitate the involvement of long-term care providers in coordination of community-based long-term care services and for working to ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities;

(t) Procedures which facilitate the coordination of access services with community activities which benefit victims of Alzheimer's disease and the families of these victims;

(u) Procedures which facilitate the coordination of area agency-funded mental health services with those provided by other community organizations;

(v) Procedures for conducting outreach activities, if feasible, to identify eligible older Indians and ensure access to services;

(w) Procedures for compiling and disseminating in the planning and service area enrollment policies and course study information of institutions of higher education specifically related to older individuals;

(x) Procedures for conducting outreach activities to identify older individuals eligible for supplemental security income, Medicaid and food stamp benefits; for informing them of eligibility requirements; and for assisting them in accessing those benefits;

(y) Assurances that funds received under Title III shall be expended in accordance with applicable state and federal statutory and regulatory provisions and with Office of Aging Services' policy; and

(z) Assurances that, if applicable, operation of the district long-term care ombudsman program shall be in accordance with state and federal statutory and regulatory provisions and with Office of Aging Services' policy.

(7) Each area agency on aging shall have a plan for denial, suspension or reduction of services to eligible persons. Each plan shall be maintained on file at the area agency on aging and shall be accessible for monitoring purposes. The plan shall specify, at a minimum:

(a) That if services for a client or participant are denied, suspended or reduced, one (1) of the following situations shall be present and documented:

1. Funds are no longer available or are reduced;

2. The service level is no longer needed;

3. Prioritization and needs determination indicate the client no longer meets the criteria established for receiving services; or

(b) The office shall receive written notice of actions other than those listed in paragraph (a)1 through 3 of this subsection which may result in the denial of access to a program to an eligible participant.

(8) The area agencies on aging shall implement, within budget limitations, education and training programs that respond to the needs of senior citizens, service providers and other groups as needs are identified and funding sources become available. Activities which shall be conducted by the area agency on aging to implement training and education programs include the following:

(a) Conduct annual assessments to informally identify training needs and develop correlating plans;

(b) Identify and review resources available to meet training needs;

(c) Develop a comprehensive education and training plan;

(d) Seek additional resources to implement the plan;

(e) Effect interagency coordination for the provision of specialized training;

(f) Facilitate and assist the efforts of higher education in statewide forums of a gerontological orientation;

(g) Conduct and coordinate specific training on aging programs districtwide;

(h) Coordinate education programs with private, public, governmental and educational organizations and institutions;

(i) Conduct training for area advisory councils;

(j) Specify the training requirements of the service providers;

(k) May enter into contracts through the area development districts with providers of education and training services which can demonstrate the experience or capacity to provide these services, except that these contract authority shall be effective for a fiscal year only to the extent, or in amounts as are provided in appropriate Acts; and

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(l) Plan and implement staff development initiatives.

(9) Each area development district may use its own definition of equipment as long as it includes tangible personal property having a useful life of at least one (1) year and a unit cost of \$500 or more.

(a) Equipment records shall be current and shall contain at least the following information:

1. Description of the item;
2. Serial number;
3. Source of funds used to purchase the item;
4. Federal share (percent) of the cost;
5. Acquisition cost and date;
6. Unit cost;
7. Location, use and condition of the equipment and date this equipment was obtained;
8. Information on the disposition of the item.

(b) There shall be a system to prevent loss, damage, or theft and adequate maintenance procedures to keep equipment in good condition.

(c) Purchase of equipment with a unit cost of \$500 or more requires prior approval from the Office of Aging Services.

(d) Equipment which is replaced may be traded in, or may be sold and the proceeds applied to the acquisition cost. If equipment with a unit cost of \$1,000 or more is to be disposed of, not replaced, the granting agency has the right to require transfer of the equipment and title to an eligible party. If approved by the granting agency, the equipment may be sold with the federal share of the proceeds applied to the program as program income. If the federal share is not applied to the program as program income, the federal share, less selling expenses, shall be returned to the federal government or an eligible nonfederal party named by the cabinet's Office of Aging Services.

(e) The area development district shall agree to the transfer of items of equipment and supplies with a value of less than \$1,000 to a new provider, if a new provider is selected as a result of competition, or if a contract is terminated by the provider or the cabinet, and a new provider is secured. This equipment and supplies shall be transferred to the cabinet's Office of Aging Services if no new provider has been secured. If there is a termination of a contract or a selection of a new provider, the transfer shall be made within thirty (30) days from the date of receipt of notice from the office, this notice to be by certified mail, return receipt requested.

(10) Area agency on aging responsibilities for monitoring and evaluation shall:

(a) Permit staff of the Cabinet for Health Services, persons acting for the Cabinet for Health Services, and staff designated by appropriate federal agencies to monitor and evaluate programs and activities initiated under the Older Americans Act and other programs for which the office has administrative responsibility;

(b) Respond to monitoring reports prepared by the office by submission of and compliance with a corrective action plan based on monitoring findings;

(c) Be responsible for fiscal or program exceptions established by evaluation, monitoring or audit and promptly settle monitoring, fiscal and program audit exceptions by making direct payment, or reduction of future reimbursement, or by other methods approved by the Cabinet for Health Services;

(d) Furnish appropriate technical assistance to providers of supportive services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan and conduct an annual evaluation of the effectiveness of outreach;

(e) Conduct periodic evaluations of, and public hearings on, activities carried out under the area plan;

(f) Monitor, evaluate, and, if appropriate, comment on the policies, programs, hearings, levies, and community actions which affect older persons;

(g) Monitor and assess services as approved in area plans to determine compliance with contract requirements, approved area plans, and with applicable federal and state statutory requirements;

(h) Submit written evaluation of findings with recommendations regarding on-site monitoring visits and reports to the service providers;

(i) Require the service provider to permit staff of the Cabinet for Health Services, persons acting for the Cabinet for Health Services, and staff designated by appropriate federal agencies to monitor and evaluate programs and activities initiated under the Older Americans Act and other programs for which the office has administrative responsibility; and

(j) Require the service provider to have provision for interview of clients by persons and agencies listed in paragraph (i) of this subsection, and the area agency on aging, except if confidentiality requirements are applicable.

(11) The area development districts shall adhere to the procurement requirements contained in the references and shall:

(a) Promote open and free competition among qualified competitors.

(b) Not restrict or eliminate competition by placing unreasonable or unnecessary requirements on potential bidders.

(c) Establish procurement procedures which take into account the requirements of OMB Circular A-102 and other federal, state and local requirements. Procedures shall include:

1. Method for resolving protests, disputes and claims;
2. Written code or standards of conduct;
3. Review process to avoid unnecessary purchases or duplicative items;
4. Affirmative action standards which encourage contracting with minority-owned, small businesses;
5. Methods for procurement; and
6. Evaluation and selection criteria.

(d) Efforts shall be made by the area development districts to formally advertise programs and services. If the area development districts choose to utilize noncompetitive negotiations, they shall clearly document, and maintain on file, that only one (1) responsible provider is available, capable and qualified to provide the service; and that by using noncompetitive negotiations, open and free competition shall not be restricted. Area development districts shall maintain records sufficient to detail the significant history of the procurement. In addition to maintaining these documents on file, the area development districts shall provide, upon request, copies to the office, prior to subcontracting, supporting noncompetitive negotiations.

(12) Area agencies on aging shall conduct public hearings on area plans prior to their submission to the office. Amendments to area plans determined by the office to be nonadministrative in nature shall also be subject to public hearings. Area agencies on aging shall comply with the following provisions in scheduling public hearings:

(a) The selected hearing site shall be that most readily accessible to residents in the planning and service area.

(b) Notice of the hearing date, time and location shall be advertised in the area media at least ten (10) days prior to the hearing.

(c) A copy of the area plan or amendment shall be available for public review during the ten (10) working day period prior to the scheduled public hearing and the opportunity for review publicly advertised.

(d) A verbal presentation on the plan or amendment shall be given at the public hearing and written summaries of the plan or amendment made available for distribution. Area agency staff shall be present to respond to questions from the audience, which shall be encouraged.

(e) The area agency shall elicit from the audience both verbal and written recommendations and extend for a period of up to two (2) weeks the opportunity to submit comments.

(f) Written suggestions and summaries of verbal comments shall be kept on file by the area agency on aging for the duration of the plan.

(13) The area agencies on aging shall comply with the following program reporting requirements of the office:

(a) A quarterly program performance report shall be submitted to the office fifteen (15) calendar days after each quarter in accordance with format and instructions provided by the office.

(b) An annual program performance report shall be submitted to the office for the federal fiscal year October 1 - September 30 in accordance with format and instructions provided by the office.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(c) A homecare quarterly report shall be submitted to the office in accordance with format and instructions provided by the office.

(d) A monthly meal count report for Title III and homecare shall be submitted to the office by the 15th of each month following the month reported.

(e) The statewide computerized reporting system shall be utilized to collect information on homecare services in accordance with the homecare reporting instructions. This system shall be utilized and maintained in accordance with instructions and format provided by the office.

(f) Title V progress reports shall be submitted to the office fifteen (15) to twenty (20) calendar days after the end of each quarter in accordance with format and instructions provided by the office.

1. Title V monthly narrative reports shall be submitted on local administration, job development, enrollee activities, orientation, on-the-job training, coordination and cooperation between agencies, outstanding activities, or problem areas.

2. Information on individual Title V enrollees shall be submitted at least annually or as various enrollee activities occur. Information shall include program certification or income eligibility, physical examination, client intake, job description, and evaluation activities.

(g) Special reports shall be required by the office as periodically specified. These reports may include but are not limited to:

1. Evaluations of outreach activities. In accordance with the Older Americans Act, Section 306(a)(6)(P), area agencies on aging shall conduct evaluations of outreach activities as prescribed by guidelines received from the Administration on Aging.

2. Evaluation of unmet need. In accordance with the Older Americans Act regulations, Section 1321.52, the office shall submit objectively collected and statistically valid data with evaluative conclusions concerning the unmet need for supportive services, nutrition services, and multipurpose senior centers gathered pursuant to Section 307(a)(3)(A) of the Older Americans Act to the Administration on Aging. The evaluations shall consider services in these categories regardless of the source of funding for the services. This information shall conform to guidance issued by the administration on aging.

(14) The area agency on aging shall assure that a written uniform system is in place for maintenance of waiting lists and shall follow these guidelines:

(a) Each waiting list for services shall be reported to the office as part of the quarterly program performance report.

(b) The waiting list for homecare services shall be updated monthly and shall include persons awaiting assessment, those assessed, and those for whom additional services are needed.

(c) The system shall be based on either a first-come, first-served basis or an approved objective method to prioritize applicants.

(d) Applicants shall be advised and presented with the written procedures and method of facilitating the waiting list.

(e) Applicants who are determined to be potentially eligible based on prescreening information gathered by the case manager may be placed on a waiting list.

Section 5. Service Provider Responsibilities. (1) Each service provider shall specify in writing to the area development district how the provider intends to satisfy the needs of low-income minority individuals in the area served. The provider shall provide services to low-income minority individuals at least in proportion to the numbers of low-income minority older persons in the population served by the provider.

(2) The service provider shall provide the area agency on aging with statistical and other information which enables the area agency on aging to conform with state-required planning, coordination, evaluation and reporting provisions.

(3) The service provider shall provide for each homemaker providing services funded through the office a comprehensive training course designed by the office.

Section 6. Participant Responsibilities. (1) To receive services from a program or service administered by the office, the

participant shall:

(a) Sign an application for services within thirty (30) days of receiving services or if the client is unable for physical or mental reasons to consent and has a legal guardian, caregiver, spouse or other proxy, the application shall be signed by that person.

(b) Signify the following voluntarily by signing the application:

1. Verification of income, if questionable except for Title III, which prohibits a means test;

2. Release of information to specified agencies;

3. Access by the cabinet and the area development district to the participant's records for monitoring purposes; and

4. Understanding by the participant of "participant responsibilities".

(2) If either party feels that an offense has occurred, recourse shall be sought through the mediation, grievance, or complaint procedures established by the provider, the area development district or the office.

(3) Participant services shall not be suspended by a provider agency until the case manager, center director or agency director has determined that the provisions of the care plan cannot be met due to the behavior of the participant or family. Services may be suspended if the service provider or case manager deems that a worker shall be at imminent risk or danger. The provider agency shall report suspension of services immediately to the area agency on aging who shall investigate the suspension and make a final determination.

(4) A written report which documents the grounds requiring suspension, attempts to resolve the situation and written notice that the client may file a grievance under fair hearing procedures shall be forwarded to the area development district or to the office if the area development district provides case management directly.

(5) If conflicts or disagreements occur involving either staff or participants regarding mutual respect, the following steps shall be followed:

- (a) A verbal warning to the staff or participant for the first conflict;

- (b) A written warning for a second conflict;

- (c) Suspension;

- (d) In situations of suspension as described in subsection (3) of this section, a written report which documents the grounds requiring suspension, attempts to resolve the situation and written notice that the client may file a grievance under the fair hearing procedures shall be forwarded to the area development district or to the Office of Aging Services if the area development district provides case management directly; and

- (e) Detailed written records shall be maintained for the service provider.

(6) The following shall be excluded from subsections (1) through (5) of this section:

- (a) Residents and family members who receive services under the long-term care ombudsman program.

- (b) Participants and providers of intake and referral, outreach and legal assistance.

- (c) Congregate services provided in or arranged by a senior citizens center, nutrition site or other provider. Senior centers, nutrition sites, day care or other congregate programs may develop and display conspicuously a policy of mutual respect as appropriate for the congregate location.

Section 7. Confidentiality and Disclosure. (1) Client information obtained by the office or its contractors from an older person shall not be disclosed by the provider or agency in a form that identifies the person without the informed consent of the person or legal representative unless the disclosure is required by court order, or for program monitoring by authorized federal, state or local monitoring agencies.

(2) The office, the area agencies on aging, and the service providers shall refer reports of abuse, neglect, exploitation or spouse abuse received to Adult Stability and Safety, Department for Community-Based Services.

(3) The office shall not be required to disclose those types of information or documents that are exempt from disclosure by a

VOLUME 41, NUMBER 10 – APRIL 1, 2015

federal agency under the Federal Freedom of Information Act, 5 U.S.C. 552.

(4) The office or an area agency on aging shall not require a provider of legal assistance to reveal information that is protected by attorney-client privilege.

(5) Each area agency on aging shall have written confidentiality procedures.

Section 8. Center and Nutrition Site Operation. The office shall set minimum requirements for the types of service sites. Title III-B or Title III-C services shall be funded at a site only if the site has been approved by the office. A site shall not become operational until an on-site visit by the office has been completed and express approval given by the office, except for emergency situations.

(1) The following criteria shall apply to the types of service sites:

(a) Services shall comply with the standard service definitions as governed by 910 KAR 1:170, Support services for the elderly.

(b) Prior to approval of any Title III-B or III-C site, it shall be inspected by the following:

1. Local health department for compliance with applicable health codes. These codes shall vary depending on the types of services provided at the site;

2. Local fire department for compliance with fire and building safety codes; and

3. Office shall conduct on-site visits for compliance with Section 307(a)(8) of the Older Americans Act.

(c) Sites shall be located as near as possible to the target group of individuals.

(d) Sites shall comply with the confidentiality and disclosure requirements.

(e) Sites shall be clearly identified to the public with a sign.

(f) Location of the facility.

1. The selection of a site for a center shall be based on information on older people in its service area and on the advice of public and voluntary agencies serving the elderly. The following factors shall be given consideration in choosing a site:

a. Demographic information and projections;

b. Accessibility to the maximum number of people who are socially or economically deprived;

c. Proximity to other services and facilities;

d. Convenience to public or private transportation or location within comfortable walking distance for participants;

e. Free of structural barriers or difficult terrain; and

f. Safety and security of participants and staff.

2. A center shall take necessary actions to create for handicapped older people barrier-free access and movement within the facility in conformance with the requirements of Section 504 of the Rehabilitation Act of 1973.

3. Arrangements shall be made for security of facility equipment, furniture, and files.

4. If appropriate, the facility shall make arrangements to offer activities and services at other locations in its service area.

5. If feasible, the location shall be a place the people in the service area feel free to attend and participate.

(g) Safety requirements of local, state, and federal laws shall be met.

1. The center shall be free of physical hazards.

2. Signs shall be visible for exits, entrances, and other areas of importance.

3. Bathrooms and kitchens shall include safety features appropriate to their special uses.

4. Procedures for fire safety shall be adopted, including fire drills, inspection, and maintenance of fire extinguishers, periodic inspection and training by fire department personnel.

5. Procedures for disaster other than fire shall be developed and posted.

6. The facility shall be properly maintained and repaired as appropriate.

(h) Existing service sites that do not meet the above requirements shall comply with a corrective action plan administered by the office.

(2) Nutrition site requirements.

(a) Each nutrition site shall have an individual, either volunteer or paid staff, who is responsible for the administration of the site. At least one (1) staff person shall be present at the site during hours of operation.

(b) Minimum services which shall be available at a nutrition site are:

1. At least one (1) hot meal shall be provided two (2) or more days a week.

2. Arrangements for outreach services shall be in place. These services may be funded by III-B or III-C.

3. Information and referral shall be available through the nutrition site.

4. Nutrition education shall be available through the nutrition site.

(c) An optional service may be home-delivered meals.

(d) The total number of participants to be served shall be adequate to justify the cost of operating the site.

(e) Meals may be either prepared on site, catered, or prepared in a central kitchen.

(3) Senior service site requirements.

(a) Each senior service site shall have an individual, either paid or volunteer staff, who is responsible for the administration of the site. At least one (1) staff person shall be present at the site during hours of operation.

(b) At a minimum, services shall be provided on a regularly scheduled basis, and be in operation two (2) or more days per week.

(c) The total number of participants to be served shall be adequate to justify the cost of operating the site.

(d) Minimum services which shall be available at this site:

1. Outreach activities, in addition to one (1) or more services, shall be provided;

2. Congregate meals shall not be provided at this site; and

3. Information and referral shall be available through the senior service site.

(4) Senior center requirements.

(a) Each senior center shall have an individual, either paid or volunteer staff who is responsible for the administration of the center. At least one (1) staff person shall be present at the site during hours of operation.

(b) The senior center shall be open at least four (4) hours a day, three (3) or more days per week.

(c) The total number of participants to be served shall be adequate to justify the cost of operating this center.

(d) Minimum services which shall be available at this center:

1. Services which are available at a nutrition site, with emphasis on outreach activities; and

2. At least one (1) additional supportive service shall be provided at this center.

(5) Multipurpose senior citizens center responsibilities.

(a) Each multipurpose senior citizens center shall have a full-time center director and an adequate number of qualified full-time or part-time staff to administer the center and provide quality service.

(b) At a minimum, a multipurpose senior citizens center shall be open six (6) hours per day and five (5) days per week.

(c) The total number of participants to be served shall be adequate to justify the cost of operating this center.

(d) Minimum services which shall be available at a multipurpose senior citizens center:

1. The services which are available at a nutrition site with emphasis on mandated outreach services;

2. At least one (1) component service shall be provided in each of the following categories:

a. Access services which includes transportation, outreach and information and referral;

b. In-home services which includes homemaker, home health aide, telephone, visiting reassurance and chore maintenance;

c. Other services which may be provided include services to residents of care-providing facilities, health-related services, volunteer activities, placement, individual and group activities and other services as defined by the office standard service definitions.

(6) Altering center operations.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(a) Prior approval shall be obtained from the office by an area agency on aging which intends to:

1. Close a center or open a new senior center;
 2. Change the hours or days of operation;
 3. Change the location of the center;
 4. Change the method of providing services in a manner that affects availability of ongoing services;
 5. Substantially reduce the level or number of services.
- (b) Justification for the change shall include:
1. The proposed effective date of this change;
 2. Need or reason for the change;
 3. The number of participants affected by this particular change or action;
 4. Whether this change is temporary or permanent; explanation;
 5. The cost benefit;
 6. If a change is being made to an existing center, whether this facility was altered, renovated or constructed with Older Americans Act funds; date work was completed;
 7. Whether the area agency on aging advisory council recommended this change;
 8. What provisions are proposed to continue services to these participants; and
 9. For a proposed new center, costs involved in meeting local fire, health, safety and sanitation regulations.

(c) A request to open a new center shall include copies of the completed health and fire department inspection forms and completed Title III site and focal point pages, if applicable.

(d) If meal preparation at a new center is proposed, notify the office and the local fire and health departments.

(e) The office shall review the information submitted and if necessary or feasible conduct an on-site visit before a determination is made.

(f) In case of altered center operations due to damages caused by fires, floods, storms, high winds, and tornadoes, the Office of Aging Services shall be notified by telephone that emergency alterations are necessary. Prior approval shall be obtained by telephone from the Office of Aging Services on a conditional basis under emergency circumstances with final approval pending written documentation of the proposed change; local fire, health and safety inspections, and an on-site visit by the office.

Section 9. Sectarian Use of a Facility. With respect to the acquisition (in fee simple or by lease for ten (10) years or more), alteration, or renovation of existing facilities, or the construction of new facilities, the office shall assure that Title III funds shall not be used for sectarian instruction or to provide a facility for religious worship. The prohibition does not preclude the use of a facility owned by a religious organization for the delivery of services to the elderly.

Section 10. Contracts. (1) The office shall designate planning and service areas in the state and shall make a contract under an approved area plan with one (1) area agency (area development district) in each planning and service area for the purpose of building comprehensive systems for older persons throughout the state. The area development district, in turn, shall contract with service providers to perform certain specified functions. Each contract negotiated shall contain at least the following:

(a) A complete detailed description of services to be provided by the contractor;

(b) A complete description of other responsibilities of the contractor including: records retention, reporting requirements, cost-sharing, and compliance with applicable assurances, laws, and regulations;

(c) A complete description of the cabinet's responsibilities and commitments to the contractor including: technical assistance which shall be provided and activities which the cabinet shall perform in order for the contractor to meet its obligations;

(d) A complete description of the basis for reimbursement to the contractor for services rendered including:

1. Rates;
2. Frequency of billing;

3. Invoice requirements;
4. Office site for invoices to be submitted; and
5. A budget if applicable;

(e) Assurances regarding the rights of cabinet personnel or designees; state or federal officials or auditors; or independent auditors to inspect records and monitor service delivery of the contractor relative to evaluation and audits;

(f) A requirement that the contractor accepts responsibility for an audit exceptions arising from its failure to comply with the terms of the contract including regulations applicable to federally-funded activities;

(g) A final invoice for services rendered under the contract shall be submitted to and received by the Office of Aging Services no later than thirty (30) days following the expiration date of the contract, unless a written request for waiver of this deadline is submitted by the contractor and approved by the Office of Aging Services fifteen (15) days prior to the expiration date and accompanied by a signed statement from the contractor that it is the final invoice and that no further billings shall be sent to the Office of Aging Services relative to cost for services provided under the agreement; and

(h) A clause that either party shall have the right to terminate the contract upon thirty (30) days written notice served on the other by registered or certified mail.

(2) A certified public accountant shall be engaged by an area development district to make independent audits of the area development district's financial and other records for the period for which the contract is in effect.

(a) The certified public accountant engaged by the area development district shall make an independent audit of the area development district's financial and other records for the period for which the contract is in effect, and submit an original of the audit to the Kentucky Department of Local Governments and a copy of the audit to the office properly certified by the certified public accountant, not later than ninety (90) days after the end of the period or upon completion of an organization-wide audit conducted in accordance with OMB A-128 and the Single Audit Act of 1984, Pub.L. 98-502. The engagement letter between the area development district and its certified public accountant shall contain the following clauses:

1. The auditor shall, in accordance with generally accepted auditing standards, examine the agency's final expenditure reports as required and issue a report on the examination. Specifically included within the scope of this examination are the following audit procedures:

a. The auditor shall familiarize himself with the agency's approved cost allocation plan as submitted to the Kentucky Department of Local Government or to the area development district if provider agency is a subcontractor of the area development district and verify that the agency used the correct accounting methodology to derive the expenditures presented on the above-mentioned final expenditure reports;

b. The audit report shall contain a supplemental schedule that consolidates individual subcontractor's final expenditure reports into a total expenditure report for each major service program. While the auditor may disclaim an opinion on this supplemental schedule, he shall verify its mathematical accuracy;

c. The auditor shall familiarize himself with applicable requirements as set forth in the Office of Aging Services' aging policies, contract requirements, and applicable federal requirements. Deviations from these requirements which, in the judgment of the independent auditor, relate to substantive program or financial matters, shall be furnished directly by the auditor to the Kentucky Office of Aging Services.

(b) The cabinet, Kentucky Auditor of Public Accounts, U.S. Department of Health and Human Services, U.S. General Accounting Office, and other appropriate federal agencies retain the right to audit and review the area development district's records and accounts for a period of three (3) years from the date of the last payment received for the contract period, or until audited and audit exceptions are resolved; and

(c) The final audited fiscal report, reconciled with the audit, shall be submitted not later than ninety (90) days after the ending

VOLUME 41, NUMBER 10 – APRIL 1, 2015

date of the contract, or upon completion of an organization-wide audit conducted in accordance with OMB A-128 and the Single Audit Act of 1984, Pub.L. 98-502, or, if termination or cancellation occurs, not later than sixty (60) days after notice of the termination or cancellation. The cabinet has the right to deny payment for a fiscal report that does not comply with this provision.

(3) The office shall authorize the carry over of federal funds on a case-by-case basis. Area agencies on aging shall submit a narrative request for permission to carry over federal funds explaining the reason for a fund surplus and the intended use of these funds. Under Title III of the Older Americans Act, carry-over federal funds shall be matched with fifteen (15) percent local funds and no state general funds shall be carried over. Program income shall be expended in the same year in which it is collected. Each area agency on aging shall be advised to plan, administer and monitor its programs in a manner which assures that funds are utilized in the year in which they are allocated.

(4) The contractor shall certify that it shall not violate a conflict of interest statute or other applicable statute or principle by the performance of the contract.

(5) Contributions.

(a) Contributions or donations, as pertains to Title III programs, made by participants and other contributors shall be considered program income and shall be utilized to expand services provided under the Older Americans Act. Each service provider shall have an established method for providing the opportunity for participants to voluntarily contribute to the estimated cost of services rendered. Participants may be provided information to assist them in determining the amount, if any, of an individual contribution. If the participant is unable to contribute, that person shall not be denied services for failure to contribute. A means test shall not be used.

(b) Confidentiality of contributions from participants and other contributors shall be assured. Collection of contributions shall be done in a discreet manner. No written acknowledgement of the amount of contributions shall be issued except upon request of the person making the contribution when the contribution is made. Participants desiring a record of their contributions shall be encouraged to use checks if making contributions. To insure against loss, mishandling or theft of contributions, the following procedures shall be followed:

1. Two (2) persons, a participant and a staff person, shall be selected at each site to be responsible for counting and recording contributions daily;

2. Provision shall be made for safe-keeping of money from the date of collection until the provider arranges for transfer of funds. This shall be a locked box placed in a safe or a secure cabinet, file closet, or daily deposit; and

3. Funds shall be verified and collected at least weekly by the service provider.

(6) In-kind contributions shall be allowed to be used for the purpose of meeting the match if state funds, available local cash, and program income are not enough to provide the match required to obtain maximum federal funds.

(a) The subcontractor shall provide to the area agencies on aging certified statements of donated items;

(b) Match verification requirements shall be completed by the service provider and submitted to the area agency on aging if applicable; and

(c) The Cabinet for Health Services shall retain the right to request a review of these documents.

(7) In accordance with the contract, the contractor or area development district shall have a properly executed fidelity bond. The bond shall be sufficient to cover maximum sums handled quarterly under the contract with the Office of Aging Services; and a copy shall be provided to the Office of Aging Services no later than sixty (60) days from the effective date of the contract. Bonds required shall be obtained from companies holding certificates of authority as acceptable sureties.

(8) Matching requirements.

(a) The area agency on aging shall meet the matching requirements through allowable costs and third party in-kind contributions, program income or cash. Match may be cash or in-kind. Match, whether it is cash or in-kind, shall meet the following

requirements:

1. It shall not be supported with federal funds;

2. It shall be an allowable cost;

3. It shall be included in the accounting records and audit; and

4. It shall not be used to match other federal program.

(b) Certification of the appropriate match amount shall be submitted to the Office of Aging Services by the area agency on aging on a quarterly basis. The match requirement shall be met by category by the end of each quarter of the fiscal year. The procedure for certifying match shall be as follows:

1. The area agency on aging monthly financial reports shall indicate the amount of match collected and applied during the month;

2. At the end of the quarter, the financial report shall indicate the total amount of funds necessary to meet the match requirement, by category, for the quarter; and

3. Requests for reimbursement shall reflect the amount of federal and state funds that is due based on expenditures and match. The Office of Aging Services shall not penalize contractors in terms of reimbursement of federal and state funds during the first two (2) months of the quarter if the required match is not documented on the report. The required amount of match shall be documented at the end of each quarter. Adjustments, decreases if necessary, in payment shall be made at this time.

(9) Program income shall pertain to revenue received by service agencies under contract or subcontract with the office to conduct programs and provide services which are paid for either fully or partially with federal or matching funds. Program income includes participant contributions, proceeds from the sale of equipment or property, and rental fees. Program income shall be spent during the same fiscal year it is collected and shall be used to further the objectives of the aging program. The cost principles applicable to federal funds also apply to program income. Program-related income, under Title III, shall be used in either the additive alternative in 45 C.F.R. 92.25(g)(2) or the cost sharing or matching alternative in 45 C.F.R. 92.25(g)(3) or a combination of the two (2). The deduction alternative described in 45 C.F.R. 92.25(g)(1) shall not be permitted.

(10) The area development district and subcontractors shall maintain records pertaining to the contract for a period of not less than three (3) years after the matters pertaining to the contract are resolved in accordance with applicable federal and state laws, regulations and policies.

(11) The area development district may enter into subcontracts only upon receipt of a final contract with the Cabinet for Health Services. To conduct activities or services on its behalf, the area development district may enter into subcontracts, and amendments thereof, with profit-making corporations with prior approval of the Cabinet for Health Services. Recipients of awards shall be incorporated to safeguard the interest of the cabinet, the area agency on aging, the recipient of the award itself, the individuals involved in the delivery of services, and the individuals participating in the program, unless award is made to an individual under a personal service contract.

(a) The area development district shall execute a formal subcontract for those activities and services to be conducted by an agency or organization other than the area development district. The subcontract shall contain sufficient program and fiscal information to assure that the activities and services under an approved plan shall be conducted in conformity with the Older Americans Act. Once a subcontract has been executed by an area development district to carry out a service or activity under an approved plan, the subcontract shall be forwarded within thirty (30) days to the office and made part of the approved area plan.

(b) If the unit cost rate of a fixed rate subcontract is increased, a subcontract amendment reflecting the increase shall require prior review by the area agency on aging advisory council, approval by the area development district board and approval of the office.

(12) The office shall require prior approval of transfers of funds allocated to area development districts. With respect to Title III funds, the following shall apply:

(a) The area agency on aging may elect, in its area plan to transfer a portion of the funds for use as the area agency on aging

VOLUME 41, NUMBER 10 – APRIL 1, 2015

considers appropriate to meet the needs of the area served;

(b) The area agency on aging may elect to transfer between allotments up to a percentage, set by the office, of an agency's separate allotments for congregate and home-delivered nutrition services;

(c) The area agency on aging may elect to transfer not more than a percentage, set by the office, of the funds allotted for a fiscal year between programs under part B and part C of Title III, for use as the agency considers appropriate;

(d) Title III funds shall not be transferred from Part B, C1, C2 after approval of the original budget by the office; and

(e) If the area agency on aging proposes to transfer more than the above percentages from one (1) allotment to another, the request shall be submitted to the office by March 1 of each approaching fiscal year and shall be by written request with justification for each transfer.

Section 11. Medication Assistance. Providers other than licensed home health agencies may allow staff to assist participants in medication usage. Assistance shall be provided only by staff who have received training in medication assistance and only to individuals whose care plans include this service.

(1) The assessor or case manager shall:

(a) Conduct an assessment of the individual to determine the presence of sensory or functional impairment which may indicate problems with taking medication.

(b) Collect information from the client on medications, including prescriptions and over the counter drugs and the following:

1. Name and dosage of the medication;
2. Purpose of the medication;
3. The amount of the medication ordered;
4. Amount to be taken each time and when;
5. The physician's name.

(c) Prepare a list of medications prescribed including the times at which they shall be taken.

(d) If a client is using over the counter medications or home remedies, contact the client's physician or pharmacist to secure approval for their continued use.

(2) The provider shall:

(a) Set up a schedule to be followed daily. After each medication has been taken, the provider shall check it off. Refer to the schedule and remind the client if medicine is due.

(b) Assure that the correct medication is given by checking the prescription label before giving the medicine bottle to the client.

(c) Assure that the method of taking the medication is followed.

(d) Explain to the client the importance of taking prescription or over the counter medication as directed.

(e) Place certain medications within the client's reach so that the client can place these tablets under the tongue the moment chest pain occurs.

(f) Put away sleep and pain medications after each use. Sleeping pills and other addicting drugs shall be used only as ordered by the doctor.

(g) Review the evening medication schedule with the client, being sure the client knows the method and time to take medications if no assistance can be given, leaving the medications within easy reach of the client and encouraging the client to take nighttime doses in a well lit room.

(h) If the client has questions about the medications, encourage the client to consult his doctor.

Section 12. Volunteers. Each area agency on aging shall develop mechanisms for volunteer recruitment and training. The office shall coordinate with the foster grandparent program, retired senior volunteer program, senior centers, and other agencies or organizations in the provision of meaningful volunteer services. The office shall review proposals for continuation of volunteer programs, comment to the respective agencies, and submit letters of support upon request of the applicant agencies.

Section 13. Records Check. In the programs administered by the office, applicants for employment and volunteers with direct client contact shall be requested to authorize the release of police

records to the area development district using a request for police record search. An applicant or volunteer with a criminal record may be employed only with the approval of the executive director of the area development district. It shall not be a condition of employment for the applicant to authorize the release of police records. It shall not be a condition of participant eligibility in the Title V program for the applicant to authorize the release of police records. Title V participants applying to be employed by the area development district or service provider in direct ongoing program responsibilities shall authorize the release of police records.

Section 14. State Plan. The office shall develop and submit for federal approval and funding a state plan for the delivery of services to the elderly in accordance with the provisions of Section 307 of the Older Americans Act and which advances the state agency mission as set forth under 45 C.F.R. 1321.7. Administration of the state plan shall be subject to the federal legislative and regulatory provisions and Office of Aging Services policies.

(1) The state plan shall include:

(a) Identification of the single state agency that has been designated to develop and administer the plan;

(b) Statewide program objectives to implement the requirements under Title III of the Older Americans Act and subsequent objectives established through the rulemaking process;

(c) A resource allocation plan indicating the proposed use of all Title III funds directly administered by the state agency, and the distribution of Title III funds to each planning and service area;

(d) Identification of the geographic boundaries of each planning and service area and of area agencies on aging designated for each planning and service area;

(e) Provision of prior federal fiscal year information relating to low income minority and rural older individuals as required by Sections 307(a)(23) and (29) of the Older Americans Act;

(f) Assurances and provisions required in Sections 305 and 307 of the Act and requirements under 45 C.F.R. 1321.5-1231.75; and

(g) Assurances as prescribed by the Commissioner of the U.S. Administration on Aging.

(2) The office shall provide for amendments to the state plan on aging services in accordance with the provisions of 45 C.F.R. 1321.19. The state plan shall be amended to:

(a) Reflect new or revised federal statutes or regulations.

(b) Reflect a material change in any law, organization, policy or state agency operation.

(c) Reflect information required annually by Sections 307(a)(23) and (29) of the Older Americans Act.

(3) The office shall submit for prior approval of the commissioner of the Administration on Aging proposed amendments to the state plan required under 45 C.F.R. 1321.17(a) or (f); and shall notify the commissioner of changes of provisions under 45 C.F.R. 1321.17(b) through (d).

(4) The office shall exercise the right of appeal and request for hearing on federal disapproval of state plan on aging services under the provisions of Sections 307(c) and 207(d) of the Older Americans Act which are subject to the provisions of 45 C.F.R. Part 213.

Section 15. Hearing Procedures for Area Agency on Aging. (1) The office shall provide an opportunity for a hearing to area agencies on aging if the office proposes the following adverse actions:

(a) Disapproves the area plan or plan amendment submitted by the area agency as specified in 45 C.F.R. 1321;

(b) Withdraws the area agency on aging's designation as provided in 45 C.F.R. 1321; or

(c) Denies an application for designation as a planning and service area under 45 C.F.R. 1321.

(2) If a complaint is filed, the area agency on aging shall be afforded:

(a) An opportunity to review pertinent evidence on which the adverse action was based;

(b) An opportunity to appear in person before a group which

VOLUME 41, NUMBER 10 – APRIL 1, 2015

shall render an impartial decision to refute the basis for the decision;

(c) An opportunity to be represented by counsel;

(d) An opportunity to present witnesses and documentary evidence;

(e) An opportunity to cross-examine witnesses; and

(f) A written impartial decision which sets forth:

1. The reasons for the decision;

2. The evidence on which the decision is based; and

3. A statement explaining the complainant's rights to appeal.

(3) Complaints filed by area agencies on aging shall be as follows:

(a) Area agencies on aging shall file a written request for a hearing with the Executive Director, Office of Aging Services, within thirty (30) days following its receipt of the notice of the adverse action. The request shall contain reasons for the appeal.

(b) If a request for a hearing is received, the Executive Director, Office of Aging Services, shall:

1. Appoint a hearing officer and provide written notification of the appointment to the interested parties;

2. Notify the area agency on aging of the date, time and location of the hearing;

3. Make arrangements for official recording of the hearing and retain the official transcript, if transcribed, of testimony and other material submitted. Interested parties may obtain transcripts of hearings upon request to the Office of Aging Services and upon payment at rates that do not exceed the actual cost. An expense shall be borne by persons requesting the transcript;

(c) The Office of Aging Services may terminate formal hearing procedures if the office and area agency on aging, and other interested parties participating in the hearing, negotiate a written agreement that resolves the issue which led to the hearing.

(d) It is the responsibility of the hearing officer to conduct a fair and impartial hearing, avoid delay, and maintain order. In so doing, he has authority that includes but is not limited to:

1. Regulating the course of the hearing;

2. Regulating the participation and conduct of parties, amicus curiae, and others at the hearing;

3. Ruling on procedural matters and, if necessary, issuing protective orders or other relief to a party against whom discovery is sought;

4. Taking an action authorized by the regulations;

5. Administering oaths and affirmations;

6. Examining witnesses;

7. Receiving or excluding evidence;

8. Ruling on or limiting evidence or discovery; and

9. Recommending a final decision.

(e) The final decision on an area agency on aging appeal to the Office of Aging Services shall be rendered by the Executive Director, Office of Aging Services. The decision of the executive director shall contain information from the federal regulations 45 C.F.R. 1321 regarding appeal rights.

(f) The Office of Aging Services shall complete the hearing within eighty (80) days of the date the request for hearing was received by the state agency. The state agency shall issue the hearing decision within ten (10) working days after the hearing is completed.

Section 16. Hearing Procedures for Title III Subcontractors or Applicants to be Subcontractors. Subcontractors or applicants to be subcontractors of area agencies on aging shall be provided an opportunity for a hearing whose application to provide services under an area plan is denied or a service provider funded under Title III whose subcontract is terminated or not renewed except as provided in 45 C.F.R. Part 74 Subpart B:

(1) The procedure for complaints lodged by service providers or applicants to provide services who are subcontractors shall be as follows:

(a) The service provider or unsuccessful applicant to provide services shall contact the contracting agency to try to work out a satisfactory solution.

(b) If a complaint is filed, the complainant shall comply with the contracting agency's hearing procedures which shall include the

following provisions:

1. A service provider or unsuccessful applicant to provide services aggrieved by an adverse action of a contracting agency shall, within ten (10) working days from receipt of notice of the adverse action, file a written complaint with the agency;

2. The contracting agency shall notify all parties of interest that a contracting has been filed and determine a time and place for the hearing;

3. An opportunity to review pertinent evidence on which the adverse action was based;

4. An opportunity to appear in person before an individual or a group of three (3) persons which can render an impartial decision to refute the basis for the decision;

5. An opportunity to be represented by counsel;

6. An opportunity to present witnesses and documentary evidence;

7. An opportunity to cross-examine all witnesses; and

8. A written impartial decision within ten (10) days of receipt of complaint which sets forth:

a. The reasons for the decision;

b. The evidence on which the decision is based; and

c. A statement explaining the complainant's rights to appeal.

(2) If the complainant is not satisfied with the decision of the contracting agency, the complainant shall file a notice of appeal within five (5) working days of the adverse action to the area development district and the area development district board of directors shall be responsible for the provision of a full evidentiary hearing within twenty (20) days of receipt of written notice of the complaint in order to render a final impartial decision. It shall be the responsibility of the area development district to provide an official transcript of the hearing at the final local appeal level to include all testimony, a copy of findings of fact, conclusions of law and final order, along with other evidence and exhibits submitted for the record. An impartial decision shall be made as soon as practicable or within ten (10) working days.

(3) The hearing shall be limited to those issues included in the original complaint. Only those issues shall be addressed unless issues have been added, modified, or deleted through written agreement of the involved parties.

(4) The complainant may drop the complaint if satisfied with the response of the area development district. If the complainant is not satisfied, the complainant may appeal to the Office of Aging Services for a state-level review within five (5) working days from the time the decision is received.

(5) Upon receipt of the request, the hearing officer appointed by Office of Aging Services shall request the transcript of the hearing before the area development district board of directors and notify interested parties that the appeal has been filed. Upon proper motion of any interested party, the hearing officer may dismiss an appeal if it was not timely filed, or remand the appeal to the area development district board of directors if the appellant did not exhaust his administrative remedies at the local level.

(6) The hearing officer shall make a determination of the issues based on the transcript of the hearing before the area development district board of directors. New evidence shall not be introduced during the appeal to the Office of Aging Services unless it is determined by the hearing officer that additional evidence is necessary in order to make a decision.

(7) The hearing officer shall forward his recommended decision to the Executive Director, Office of Aging Services, within ten (10) days of receipt of appeal. The final decision shall be rendered by the Executive Director, Office of Aging Services, within ten (10) working days after receipt of hearing officer's recommendation. The decision of the Executive Director of the Office of Aging Services shall be the final order.

Section 17. Material Incorporated by Reference.

(1) Forms necessary for the implementation of the general administration of programs for the elderly are being incorporated by reference.

(2) Material incorporated by reference may be inspected and copied at the Office of Aging Services, CHR Building, 5th Floor, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are

VOLUME 41, NUMBER 10 – APRIL 1, 2015

8 a.m. to 4:30 p.m.]

DEBORAH S. ANDERSON, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 10, 2015

FILED WITH LRC: March 12, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2015 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing April 14, 2015, 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 April 30, 2015. 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: Phyllis Sosa

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the State Unit on Aging as required by the Older Americans Act of 1965, as amended, for the general administration of programs for the elderly.

(b) The necessity of this administrative regulation: The function of this administrative regulation is to set forth the policies and procedures governing the general administration of the Older Americans Act in Kentucky and state funded programs for the elderly and disabled.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides for the distribution of federal and state funds for the aging and disabilities programs. The responsibilities of the department, contract agencies, service providers and participants are included within this administrative regulation and complies with the Older American's Act of 1965, as amended and conforms to KRS 194A.050 and 205.204(2).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the standards for distribution of funding and the responsibilities of the department, contract agencies, service providers and participants.

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

(a) How the amendment will change this existing administrative regulation: This amendment provides clarification and updates to definitions, makes necessary changes in language to remain in compliance with the Older American's Act of 1965, as amended. This amendment brings the regulation and programs up to date with current standards of practice. The amendment allows for contracting of state and federal funding providing services to the elderly population and conditions when a contract may be terminated. This amendment removes language specific to each program in compliance with the statutory requirement of KRS 13A.221 that requires a separate administrative regulation for each topic of general subject matter.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation has not been amended since 1992. The regulation has not kept up with the Older Americans Act of 1965, as amended. This amendment will bring Kentucky into compliance with the Act.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms with the authorizing statute KRS 194A.050(1) and 205.204(2) by providing for the service provision of the aging and disabled population across the Commonwealth. Provides for community based services to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the elderly and disabled citizens of the Commonwealth. This administrative regulation provides home based services to allow individuals to remain in their own home longer and diverts individuals from premature institutionalization.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides clarification on the responsibilities of the department, contract agencies, service providers, and participants. It provides for confidentiality and disclosure requirements, contracts, volunteers and criminal records checks of employees and volunteers. This amendment also provides requirements for developing and implementing the state plan on aging.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are fifteen (15) Area Agencies on Aging and Independent Living agencies that provide services to the elderly and disabled populations in the planning and service areas. The department provides services to over 400,000 individuals across the Commonwealth through the AAAIL's and other service providers including: Home Health Agencies, Adult Day Care Centers, Adult Day Health Centers, Senior Centers and Nutrition Sites, Home delivered meal providers, Community Mental Health Centers, Centers for Independent Living, In Home service providers, Legal Aid, Community Action Partnerships, and transportation 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 take to comply with this administrative regulation or amendment: 1. By providing services to citizens of the commonwealth in home and community based settings, this amendment supports dignity of individuals by being able to remain in their own home rather than being placed in a long term care facility. 2. The Area Agencies on Aging and Independent Living (AAAIL) through this amendment will have updated guidelines to implement the Older Americans Act of 1965, as amended and be aware of the responsibilities in implementing services and funding requirements within the planning and service area including the monitoring of subcontractors. 3. Direct service providers will have guidelines on implementing and providing services required though the funding source and subcontract. They will also have guidelines on suspending services or terminating a client as well as requirements for employees and volunteers.

(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 is anticipated to the providers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The AAAIL's and service providers will have more clarity of their responsibilities and requirements in the provision of services, budgets, fiscal responsibilities, monitoring and oversight of programs and budgets and general operations of programs funded through the department.

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

(a) Initially: FY 15 - Approximately \$1.4 million.

(b) On a continuing basis: FY 16 - Approximately \$1.6 million.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal and State general funds.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied since policy is administered the same statewide.

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? There are fifteen (15) Area Development Districts throughout the state and the Department for Aging and Independent Living affected 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 194A.050 and 205.204(2), 45 C.F.R. 92.25(g)(2) and (3) Part 74, Subpart B, 213, 1321, 5 U.S.C. 552, 7501et seq., 42 U.S.C. 3001 et seq., 910 KAR 1:170, 910 KAR 1:180, 910 KAR 1:190; 910 KAR 1:200; 910 KAR 1:140; 910 KAR 1:210.

(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 amendment will not generate additional 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? The amendment will not generate additional revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? FY 15- approximately \$1.4 million

(d) How much will it cost to administer this program for subsequent years? FY 16- approximately \$1.6 million.

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 3:045. Issuance procedures.

RELATES TO: 7 C.F.R. 274.2,~~[274.3,]~~ 274.4, 274.5, 274.6~~[, Pub.L. 110-246]~~

STATUTORY AUTHORITY: KRS 194A.050(1), 7 C.F.R. 271.4, 274.1~~[274.12]~~

NECESSITY, FUNCTION, AND CONFORMITY: 7 C.F.R. 271.4 requires the Cabinet for Health and Family Services to administer a Supplemental Nutrition Assistance Program (SNAP)~~[Food Stamp Program]~~ within the state. 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. The cabinet shall follow procedures established in 7 C.F.R. 274.1~~[274.12]~~ in the operation of an electronic benefit transfer or "EBT" system. This administrative regulation establishes issuance procedures used by the cabinet in the administration of SNAP~~[the Food Stamp Program]~~.

Section 1. Basic Issuance Requirements. (1) The cabinet shall be responsible for the timely and accurate issuance of benefits to eligible households.

(2) In issuing benefits, the cabinet shall insure that:

(a) Only certified households receive benefits;

(b) Program benefits shall be distributed in the correct amounts; and

(c) Benefit issuance and reconciliation activities shall be properly conducted and accurately reported to the Food and Nutrition Service (FNS).

(3) The cabinet shall advise the recipient at time of application that:

(a) After twelve (12) months of EBT account inactivity, unused benefits shall be expunged in accordance with Section 6 of this administrative regulation; and

(b) Expunged benefits shall be:

1. Applied for benefit overpayments in accordance with 921 KAR 3:050; or

2. Returned to the ~~FNS~~~~[Food and Nutrition Service]~~ of the U.S. Department of Agriculture.

(4) The cabinet shall maintain issuance records for a period of three (3) years from the month of origin.

Section 2. Benefit Delivery. (1) Benefits shall be provided to an eligible household through an EBT system.

(2) An EBT card and instructions for use shall be mailed:

(a) Directly to each eligible household; or

(b) To the local office for pick up, if requested by the household.

Section 3. Benefit Availability. (1) Benefits shall be available to a household the day after an approval is processed, if the case is a:

(a) New application;

(b) Reapplication; or

(c) Recertification that is:

1. Initiated after the 15th day of the month; and

2. Approved during the benefit month.

(2) An ongoing case shall have benefits credited to the EBT account and available to the household within the first nineteen ~~(19)~~~~(ten +10)~~ days of the benefit month.

Section 4. EBT Card Replacement. (1) The cabinet shall provide a replacement EBT card to a household within five (5) days, if the EBT card is reported:

(a) Lost;

(b) Stolen; or

(c) Damaged.

(2) An EBT card shall be deactivated if a household reports the need for card replacement.

Section 5. Benefit Replacement. (1) After the household receives an EBT card, if the EBT card is lost or stolen and the EBT account is reduced, the cabinet shall not provide replacement benefits.

(2) If food purchased with SNAP~~[food stamp]~~ benefits is destroyed in a household misfortune, the cabinet shall provide replacement benefits if:

(a) The loss is reported:

1. Orally or in writing; and

2. Within ten (10) days of the household misfortune; and

(b) A household member or authorized representative signs a statement attesting to the loss.

(3) If the household is eligible for replacement benefits, the replacement shall equal~~[the]~~:

(a) The amount of the loss to the household, not to exceed the maximum of one (1) month's benefits for the household requesting replacement; or

(b) Up to the full value of the benefits, if the replacement includes restored benefits.

(4) The cabinet shall not provide a replacement due to a household misfortune if:

(a) A disaster declaration has been issued by FNS; and

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(b) The household is eligible for disaster SNAP~~[food stamp]~~ benefits.

(5) There shall not be a limit on the number of benefit replacements for food:

- (a) Purchased with SNAP~~[food stamp]~~ benefits; and
- (b) Destroyed in a household misfortune.

(6) If available documentation indicates that a household's request for benefit replacement appears fraudulent, the cabinet shall:

- (a) 1. Deny the replacement; or
- 2.~~(b)~~ Delay the replacement; and
- (b)~~(e)~~ Inform the household:

1. Of its right to a fair hearing to contest the denial or delay of a replacement; and

2. That a replacement shall not be made while the denial or delay is being appealed.

Section 6. Account Inactivity. (1) If an EBT account has not been debited in twelve (12) consecutive months, the cabinet shall:

(a) Expunge a monthly benefit on a monthly basis as each individual benefit month reaches a date that is twelve (12) months in the past; and

(b) Notify the household in writing:

1. That the household's EBT account has not been debited in the last twelve (12) months; and

2. Of the amount of SNAP~~[EBT]~~ benefits that have been expunged.

(2) If a recipient debits the EBT account, the expungement process shall cease.

(3) Expunged benefits shall not be retrieved.

TERESA C. JAMES, LCSW, Commissioner
AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 10, 2015

FILED WITH LRC: March 12, 2015 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2015, 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 April 14, 2015, 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 April 30, 2015. 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 40601, phone 502-564-7905, fax 502-564-7573, tricia.orme@ky.gov.

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 issuance procedures used by the Cabinet for Health and Family Services in the administration of the Supplemental Nutrition Assistance Program (SNAP).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish issuance procedures for SNAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the content of the authorizing statutes by establishing issuance procedures required to administer SNAP pursuant to 7 C.F.R. 271.4 and deliver benefits pursuant to 7 C.F.R. 274.1.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing SNAP issuance procedures.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation will change the issuance of benefits for ongoing SNAP recipient households from the first ten (10) days of the month to the first nineteen (19) days of the month.

(b) The necessity of the amendment to this administrative regulation: The Kentucky Grocers Association, Inc. and the Kentucky Association of Convenience Stores, Inc. requested the expanded issuance schedule due to the spike in demand typically associated with the first ten (10) days of the month. The associations stated that stores faced logistical challenges of keeping shelves stocked and providing appropriate staffing levels to best serve customers during the first ten (10) days of the month. Especially difficult was managing perishables, such as fresh produce and meat, which are more nutritious. The USDA-Food and Nutrition Service (FNS) encourages and supports expanding the issuance of SNAP benefits to qualified households over the course of the month. All states within the FNS Southeast Region have expanded their SNAP monthly issuance schedule. The new procedural changes supported by this regulatory amendment are anticipated to decrease mass shopping during the first ten (10) days of each month, lessen burdens on retailers, make Kentucky's procedures more consistent with other states in the Southeast, and better support SNAP recipients' access to healthier and more nutritious foods.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by refining the procedures for benefit issuance in accordance with applicable federal law.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration by refining the procedures for SNAP monthly benefits issuance.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Recipients of SNAP will be affected by this administrative regulation. There are approximately 796,500 individuals in 381, 600 households receiving SNAP.

(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 amendment will not require any additional actions on the part of SNAP recipients.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): SNAP recipients will not be subject to a cost as a result of this administrative regulation. The SNAP benefits' issuance change will be staggered over two months to prevent food insecurity for recipient households subject to a day change as a result of the new issuance schedule. After the issuance change, there will be no ongoing impact to SNAP recipients. Mass notices will be generated to SNAP households in advance of the issuance change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The new procedural changes supported by this regulatory amendment are anticipated to decrease mass shopping during the first ten (10) days of each month, lessen burdens on retailers, make Kentucky's procedures more consistent with other states in the Southeast, and better support SNAP recipients' access to healthier and more nutritious foods.

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

(a) Initially: This administrative regulation will initially cost the

VOLUME 41, NUMBER 10 – APRIL 1, 2015

administrative body approximately \$314,000, which will include notices generated to SNAP recipients and systems or technology costs.

(b) On a continuing basis: No additional funding is necessary on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: SNAP benefits are 100 percent federal funded through the U.S. Department of Agriculture. Administrative costs are funded fifty (50) percent federal and fifty (50) percent state.

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

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied in a like manner on a statewide basis.

regulation will not entail any new costs to the administrating state agency 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:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 C.F.R. 271.4, 274.1

2. State compliance standards. KRS 194A.050(1)

3. Minimum or uniform standards contained in the federal mandate. 7 C.F.R. 271.4, 274.1

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment to this administrative regulation will impose no stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Justification for the imposition of a stricter standard, or additional or different responsibilities or requirements, is not applicable.

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 Cabinet for Health and Family 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 190A.050 (1), 7 C.F.R. 271.4, 274.1

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.

(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 this administrative regulation will not generate any new revenue for state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment to this administrative regulation will not generate any new revenue for state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? The amendment to this administrative regulation will entail one-time cost of approximately \$314,000 to generate notices to SNAP recipients and modify the supporting technology/data system.

(d) How much will it cost to administer this program for subsequent years? The amendment to this administrative

NEW ADMINISTRATIVE REGULATIONS

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Repealer)

804 KAR 7:011. Repeal of 804 KAR 7:010.

RELATES TO: KRS 241.075

STATUTORY AUTHORITY: KRS 241.060(1)

NECESSITY, FUNCTION AND CONFORMITY. KRS 241.060(1) authorizes the Alcoholic Beverage Control Board to promulgate administrative regulations regarding control of the sale of alcoholic beverages. KRS 241.075 was declared void by the Kentucky Supreme Court by decision rendered August 21, 2014 in Louisville/Jefferson County Metro Government v. O'Shea's-Baxter, LLC (d/b/a Flanagan's Ale House), et al (2013-SC-000085-DG), 438 S.W. 3d 379 (2014). As 804 KAR 7:010 was promulgated in accordance with KRS 241.075, it is no longer necessary and shall be repealed.

Section 1. 804 KAR 7:010, Location in cities of first class, is hereby repealed.

FREDERICK A. HIGDON, Commissioner
AMBROSE WILSON IV, Secretary

APPROVED BY AGENCY: March 13, 2015

FILED WITH LRC: March 13, 2015 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Friday, April 24, 2015 at 10:00 am Eastern Time 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 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 through April 30, 2015. 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: Melissa McQueen, Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601 phone (502) 782-7906, fax (502) 564-7479.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Melissa McQueen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation repeals 804 KAR 7:010.

(b) The necessity of this administrative regulation: The existing regulation refers to a statute that has been rendered void by the Kentucky Supreme Court. This administrative regulation repeals it.

(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. The repeal of this administrative regulation will eliminate reference to a statute that has been declared void and unconstitutional by the Supreme Court of Kentucky.

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

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: No individuals, businesses, organizations, or state and local governments are affected by the repeal.

(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 entities will be affected by this repealer.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to repeal this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There is no cost to repeal this administrative regulation.

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

(a) Initially: No extra costs are anticipated to repeal this administrative regulation.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is used to implement and enforce the repeal of 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 repeal this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increased any fees: This administrative regulation repeal 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? No units, parts or divisions of state or local government are expected to 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 241.060(1) authorizes the board to promulgate administrative regulations.

(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. No expenditures or revenue will be generated by this administrative regulation.

(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.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Commissioner's Office
(Repealer)

907 KAR 10:826. Repeal of 907 KAR 10:825.

RELATES TO: 42 U.S.C. 1396a

STATUTORY AUTHORITY: KRS 13A.310(1), 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Kentucky Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation, in accordance with KRS 13A.310(3)(a), repeals 907 KAR 10:825 effective October 1, 2015. 907 KAR 10:825 is being repealed because the subject addressed in it will be addressed in another administrative regulation, 907 KAR 10:830.

Section 1. Effective October 1, 2015, 907 KAR 10:825, Diagnosis-related group (DRG) inpatient hospital reimbursement, shall hereby be repealed.

LISA LEE, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 10, 2015

FILED WITH LRC: March 13, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2015 at 9:00 a.m. in the Health Services Auditorium, Suite C, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2015 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 April 30, 2015. 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, in accordance with KRS 13A.310(3)(a), repeals 907 KAR 10:825, Diagnosis-related group (DRG) inpatient hospital reimbursement effective October 1, 2015. 907 KAR 10:825 establishes provisions regarding a particular reimbursement model – based on diagnosis related groups or DRGs – which the Department for Medicaid Services will no longer employ effective October 1, 2015. This repealer administrative regulation is being promulgated in concert with 907 KAR 10:830, inpatient acute care hospital reimbursement, which will establish (effective October 1, 2015) a new reimbursement model for inpatient acute care hospital services provided to Medicaid recipients who are not enrolled with a managed care organization.

(b) The necessity of this administrative regulation: It is necessary to repeal 907 KAR 10:825 as DMS is implementing a new reimbursement model for acute care inpatient hospital services addressed in a new administrative regulation.

(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 repealing an administrative regulation which contains a reimbursement methodology that DMS is ending.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of the authorizing statutes by repealing an administrative regulation which contains a reimbursement methodology that DMS is ending

(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 not an amendment to an existing administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: This administrative regulation affects inpatient acute care hospitals participating in the Medicaid Program. Currently, there are 107 such hospitals.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. No action is required of regulated entities or individuals.

(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 imposed on regulated entities or individuals.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). No compliance is required as this is an administrative regulation that repeals an existing administrative regulation.

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

(a) Initially: The administrative regulation imposes no cost on the Department for Medicaid Services.

(b) On a continuing basis: The administrative regulation imposes no cost on the Department for Medicaid Services.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: No funding is necessary to 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: No fee nor funding increase is necessary to implement the administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation neither establishes nor increases any fee.

(9) Tiering: Is tiering applied? Tiering is not applied as this is a repealer 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 for Medicaid Services will be affected 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 13A.310(1), 194A.030(2), 194A.050(1), 205.520(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? This administrative regulation will generate no revenue for state or local government.

(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 generate no revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no administrative cost on the Department for Medicaid Services.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no administrative cost on the Department for Medicaid Services.

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
(New Administrative Regulation)

907 KAR 10:830. Acute care 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), 1395x(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 Department for Medicaid Services' reimbursement provisions and requirements for acute care inpatient hospital services provided to a Medicaid recipient who is not enrolled with a managed care organization.

Section 1. Definitions. (1) "Acute care hospital" is defined by KRS 205.639(1).

(2) "Appalachian Regional Hospital System" means a private, not-for-profit hospital chain operating in a Kentucky county that receives coal severance tax proceeds.

(3) "Capital cost" means capital related expenses including insurance, taxes, interest, and depreciation related to plant and equipment.

(4) "CMS" means the Centers for Medicare and Medicaid Services.

(5) "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.

(6) "Cost outlier" means a claim for which estimated cost exceeds the outlier threshold.

(7) "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.

(8) "Department" means the Department for Medicaid Services or its designated agent.

(9) "Diagnosis code" means a code:

(a) 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.

(10) "Diagnosis related group" or "DRG" means a clinically similar grouping of services that can be expected to consume similar amounts of hospital resources.

(11) "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.

(12) "DRG base payment" means the sum of the operating base payment and capital base payment, calculated as described in Section 2(4)(b) and (c) of this administrative regulation.

(13) "DRG geometric mean length-of-stay" means an average hospital length-of-stay, expressed in days, for each DRG. The geometric mean is calculated by taking the nth (number of values in the set) root of the product of all length-of-stay values within a given DRG.

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

(15) "Enrollee day" means a day of an inpatient hospital stay of a Medicaid recipient who is enrolled with a managed care organization.

(16) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(17) "Fixed loss cost threshold" means an amount, established annually by CMS, which is combined with the full DRG payment or transfer payment for each DRG to determine the outlier threshold.

(18) "Government entity" means an entity that qualifies as a unit of government for the purposes of 42 U.S.C. 1396b(w)(6)(A).

(19) "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

2. Not present upon the recipient's admission to the hospital; and

(b) Which is recognized by the Centers for Medicare and Medicaid Services as a hospital acquired condition.

(20) "Indirect medical education costs" means additional costs of serving Medicaid recipients, incurred by teaching hospitals, to provide training and education to interns and residents, which are not reimbursed through direct graduate medical education

payments.

(21) "Long-term acute care hospital" means a long term care hospital that meets the requirements established in 42 C.F.R. 412.23(e).

(22) "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.

(23) "Medicaid fee-for-service" means a service associated with a Medicaid recipient who is not enrolled with a managed care organization.

(24) "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.

(25) "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.

(26) "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.

(27) "Medically necessary" or "medical necessity" means that a covered benefit shall be provided in accordance with 907 KAR 3:130.

(28) "Medicare-dependent hospital" means a hospital designated as a Medicare dependent hospital by the Centers for Medicare and Medicaid Services.

(29) "Medicare operating and capital cost-to-charge ratios" means two hospital-specific calculations completed by Medicare using CMS 2552 cost report information. Medicare operating costs are divided by total applicable charges to determine a Medicare operating cost-to-charge ratio. Medicare capital costs are divided by total applicable charges to determine a Medicare capital cost-to-charge ratio. These ratios are published annually by CMS in an impact file released with the Medicare IPPS final rule for a given federal fiscal year.

(30) "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.

(31) "Outlier threshold" means the sum of the DRG base payment or transfer payment and the fixed loss cost threshold.

(32) "Pediatric teaching hospital" is defined in KRS 205.565(1).

(33) "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) 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.

(34) "Psychiatric hospital" means a hospital which meets the licensure requirements as established in 902 KAR 20:180.

(35) "Quality improvement organization" or "QIO" means an organization that complies with 42 C.F.R. 475.101.

(36) "Rehabilitation hospital" means a hospital meeting the licensure requirements as established in 902 KAR 20:240.

(37) "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 paid under the DRG methodology for the same period.

(38) "Resident" means an individual living in Kentucky who is not receiving public assistance in another state.

(39) "Rural hospital" means a hospital located in a rural area pursuant to 42 C.F.R. 412.64(b)(1)(ii)(C).

(40) "Sole community hospital" means a hospital that is

currently designated as a sole community hospital by the Centers for Medicare and Medicaid Services.

(41) "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.

(42) "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.

(43) "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.

(44) "Universal rate year" means the twelve (12) month period under the prospective payment system, beginning October of each year, for which a payment rate is established for a hospital regardless of the hospital's fiscal year end.

(45) "Urban hospital" means a hospital located in an urban area pursuant to 42 C.F.R. 412.64(b)(1)(ii).

(46) "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)(a) The department shall reimburse an in-state acute care hospital 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.

(b) The department's reimbursement pursuant to this administrative regulation shall approximate ninety-five (95) percent of a hospital's Medicare reimbursement excluding the following Medicare reimbursement components:

1. A Medicare low-volume hospital payment;

2. A Medicare end stage renal disease payment;

3. A Medicare new technology add-on payment;

4. A Medicare routine pass-through payment;

5. A Medicare ancillary pass-through payment;

6. A Medicare value-based purchasing payment or penalty;

7. A Medicare readmission penalty in accordance with paragraph (c) of this subsection;

8. A Medicare hospital-acquired condition penalty in accordance with paragraph (c) of this subsection;

9. Any type of Medicare payment implemented by Medicare after October 1, 2015; or

10. Any type of Medicare payment not described in this administrative regulation.

(c) The department's:

1. Never event and hospital-acquired condition provisions established in Section 3 of this administrative regulation shall apply to acute care inpatient hospital reimbursement under this administrative regulation; and

2. Readmission provisions established in Section 12 of this administrative regulation shall apply to acute care inpatient hospital reimbursement under this administrative regulation.

(2)(a) 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 sum of:

1. A DRG base payment; and

2. If applicable, a cost outlier payment.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(b) The resulting payment shall be limited to ninety-five (95) percent of the calculated value.

(c) If applicable, a transplant acquisition fee payment shall be added pursuant to subsection (11)(b) of this section.

(3)(a) The department shall assign a DRG classification to each unique discharge billed by an acute care hospital.

(b)1. The DRG assignment shall be based on the most recent Medicare Severity DRG (MS-DRG) grouping software released by the Centers for Medicare and Medicaid Services beginning with version 32 upon adoption of this administrative regulation.

2. The grouper version shall be updated in accordance with Section 8 of this administrative regulation.

(c) In assigning a DRG for a claim, the department shall exclude from consideration any secondary diagnosis code associated with a never event.

(4)(a) A DRG base payment shall be the sum of the operating base payment and the capital base payment calculated as described in paragraphs (c) and (d) of this subsection.

(b) All calculations in this subsection shall be subject to special rate-setting provisions for sole community hospitals and Medicare dependent hospitals as described in Sections 5 and 6 of this administrative regulation.

(c)1. The operating base payment shall be determined by multiplying the hospital-specific operating rate by the DRG relative weight.

2. If applicable, the resulting product of subparagraph 1. of this paragraph shall be multiplied by the sum of one (1) and a hospital-specific operating indirect medical education (IME) factor determined in accordance with subparagraph 7 of this paragraph.

3. Upon adoption of this administrative regulation, the hospital-specific operating rate referenced in subparagraph 1 of this paragraph shall be calculated using inputs from the Federal Fiscal Year 2016 Medicare IPPS final rule data tables published by CMS as described in subparagraphs 4 through 6 of this paragraph.

4. The Medicare IPPS standard amount established for operating labor costs shall be multiplied by the wage index associated with the final Core Based Statistical Area (CBSA) assigned to the hospital by Medicare, inclusive of any Section 505 adjustments applied by Medicare.

5. The resulting product of subparagraph 4 of this paragraph shall be added to the Medicare IPPS standard amount for non-labor operating costs.

6. The operating rate shall be updated in accordance with Section 8 of this administrative regulation.

7.a. Upon adoption of this administrative regulation, the hospital-specific operating IME factor shall be taken from the Federal Fiscal Year 2016 Medicare Inpatient Prospective Payment System (IPPS) final rule impact file published by CMS.

b. The operating IME factor shall be updated in accordance with Section 8 of this administrative regulation.

(d)1. The capital base payment shall be determined by multiplying the hospital-specific capital rate by the DRG relative weight.

2. If applicable, the resulting product of subparagraph 1. of this paragraph shall be multiplied by the sum of one (1) and a hospital-specific capital indirect medical education factor determined in accordance with subparagraph 6 of this paragraph.

3. Upon adoption of this administrative regulation, the hospital-specific capital rate referenced in subparagraph 1 of this paragraph shall be calculated using inputs from the Federal Fiscal Year 2016 Medicare IPPS final rule data tables published by CMS as described in subparagraphs 4 and 5 of this paragraph.

4. The Medicare IPPS standard amount established for capital costs shall be multiplied by the geographic adjustment factor (GAF) associated with the final CBSA assigned to the hospital by Medicare.

5. The capital rate shall be updated in accordance with Section 8 of this administrative regulation.

6.a. Upon adoption of this administrative regulation, the hospital-specific capital IME factor shall be taken from the Medicare Inpatient Prospective Payment System (IPPS) final rule impact file published by CMS.

b. The capital IME factor shall be updated in accordance with

Section 8 of this administrative regulation.

(5)(a) The department shall make a cost outlier payment for an approved discharge meeting the Medicaid criteria for a cost outlier for each DRG.

(b) A cost outlier shall be subject to QIO review and approval.

(c) A discharge shall qualify for a cost outlier payment if its estimated cost exceeds the DRG's outlier threshold.

(d)1. The department shall calculate the estimated cost of a discharge:

a. For purposes of comparing the discharge cost to the outlier threshold; and

b. By multiplying the sum of the hospital-specific Medicare operating and capital-related cost-to-charge ratios by the Medicaid allowed charges.

2.a. Effective October 1, 2015, a Medicare operating and capital-related cost-to-charge ratio shall be extracted from the Federal Fiscal Year 2016 Medicare IPPS final rule impact file published by CMS.

b. The Medicare operating and capital cost-to-charge ratios shall be updated in accordance with Section 8 of this administrative regulation.

(e)1. The department shall calculate an outlier threshold as the sum of a hospital's DRG base payment or transfer payment and the fixed loss cost threshold.

2.a. Upon adoption of this administrative regulation, the fixed loss cost threshold shall equal the Medicare fixed loss cost threshold established for Federal Fiscal Year 2016.

b. The fixed loss cost threshold shall be updated in accordance with Section 8 of this administrative regulation.

(f)1. For specialized burn DRGs as established by Medicare, a cost outlier payment shall equal ninety (90) percent of the amount by which estimated costs exceed a discharge's outlier threshold.

2. For all other DRGs, a cost outlier payment shall equal eighty (80) percent of the amount by which estimated costs exceed a discharge's outlier threshold.

(6)(a) Effective October 1, 2015, the department shall establish DRG relative weights obtained from the Medicare IPPS final rule data tables corresponding to the grouper version in effect under subsection (3) of this section.

(b) Relative weights shall be revised to match the grouping software version for updates in accordance with Section 8 of this administrative regulation.

(7) The department shall separately reimburse for a mother's stay and a newborn's stay based on the DRGs assigned to the mother's stay and the newborn's stay.

(8)(a) 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.

(b) 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.

(c)1. The department shall calculate an average daily discharge rate by dividing the DRG base payment by the Medicare geometric mean length-of-stay for a patient's DRG classification.

2. The Medicare geometric length-of-stay shall be obtained from the Medicare IPPS final rule data tables corresponding to the grouper version in effect under subsection (3) of this section.

3. The geometric length-of-stay values shall be revised to match the grouping software version for updates in accordance with Section 8 of this administrative regulation.

(d) Total reimbursement to the transferring hospital shall be the transfer payment amount and, if applicable, a cost outlier payment amount, limited to ninety-five (95) percent of the amount calculated for each.

(e) For a hospital receiving a transferred patient, the department shall reimburse the full DRG base payment and, if applicable, a cost outlier payment amount, limited to ninety-five (95) percent of the amount calculated for each.

(9)(a) The department shall reimburse a transferring hospital

VOLUME 41, NUMBER 10 – APRIL 1, 2015

for a transfer from an acute care hospital to a qualifying post-acute care facility for selected DRGs in accordance with paragraphs (b) through (d) of this subsection as a post-acute care transfer.

(b) The following shall qualify as a post-acute care setting:

1. A skilled nursing facility;
2. A cancer or children's hospital;
3. A home health agency;
4. A rehabilitation hospital or rehabilitation distinct part unit located within an acute care hospital;
5. A long-term acute care hospital; or
6. A psychiatric hospital or psychiatric distinct part unit located within an acute care hospital.

(c) A DRG eligible for a post-acute care transfer payment shall be in accordance with 42 U.S.C. 1395ww(d)(4)(C)(i).

(d) 1. The department shall pay each transferring hospital an average daily rate for each day of a stay.

2. A transfer-related payment shall not exceed the full DRG payment that would have been made if the patient had been discharged without being transferred.

3. 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.

4. A DRG that is referenced in paragraph (b) of this subsection and not referenced in subparagraph 2 of this paragraph shall receive twice the average daily rate for the first day of the stay and the average daily rate for each following day of the stay prior to the transfer.

5. Total reimbursement to the transferring hospital shall be the transfer payment amount and, if applicable, a cost outlier payment amount, limited to ninety-five (95) percent of the amount calculated for each.

(e) 1. The average daily rate shall be the base DRG payment allowed divided by the Medicare geometric mean length-of-stay for a patient's DRG classification.

2. The Medicare geometric mean length-of-stay shall be determined and updated in accordance with subsection (8)(c)1. of this section.

(10) The department shall reimburse a receiving hospital for a transfer to a rehabilitation or psychiatric distinct part unit the facility-specific distinct part unit per diem rate, in accordance with 907 KAR 10:815, for each day the patient remains in the distinct part unit.

(11)(a) The department shall reimburse for an organ transplant on a prospective per discharge method according to the recipient's DRG classification.

(b) 1. The department's organ transplant reimbursement shall include an interim reimbursement followed by a final reimbursement.

2. The final reimbursement shall:

- a. Include a cost settlement process based on the Medicare 2552 cost report form; and
- b. Be designed to reimburse hospitals for ninety-five (95) percent of organ acquisition costs.

3.a. An interim organ acquisition payment shall be made using a fixed-rate add-on to the standard DRG payment using the rates established in subclauses (i), (ii), (iii), (iv), and (v) of this clause:

- (i) Kidney Acquisition - \$65,000;
- (ii) Liver Acquisition - \$55,000;
- (iii) Heart Acquisition - \$70,000;
- (iv) Lung Acquisition - \$65,000; or
- (v) Pancreas Acquisition - \$40,000.

b. Upon receipt of a hospital's as-filed Medicare cost report, the department shall calculate a tentative settlement at ninety-five (95) percent of costs for organ acquisition costs utilizing worksheet D-4 of the CMS 2552 cost report for each organ specified in clause a. of this subparagraph.

c. Upon receipt of a hospital's finalized Medicare cost report, the department shall calculate a final reimbursement which shall be a cost settlement at ninety-five (95) percent of costs for organ acquisition costs utilizing worksheet D-4 of the CMS 2552 cost report for each organ specified in clause a. of this subparagraph.

d. The final cost settlement shall reflect any cost report adjustments made by CMS.

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 a DRG for a claim, the department shall exclude from the DRG assignment consideration of 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.

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. Reimbursement for Sole Community Hospitals. An operating rate for sole community hospitals shall be calculated as described in subsections (1) and (2) of this section.

(1)(a) For each sole community hospital, the department shall utilize the hospital's hospital-specific (HSP) rate calculated by Medicare.

(b) On October 1, 2015, the HSP rate shall be extracted from the Federal Fiscal Year 2016 Medicare IPPS final rule impact file.

(c) Effective October 1, 2016 and for subsequent years on October 1, the HSP rate shall be updated in accordance with Section 8 of this administrative regulation.

(2)(a) The department shall compare the rate referenced in subsection (1) of this section with the operating rate calculated in Section 2(4)(c) of this administrative regulation.

(b) The higher of the two (2) rates shall be utilized as the operating rate for sole community hospitals.

Section 6. Reimbursement for Medicare Dependent Hospitals. (1)(a) For a Medicare-dependent hospital, the department shall utilize the hospital's hospital-specific (HSP) rate calculated by Medicare.

(b) On October 1, 2015, the HSP rate shall be extracted from the Federal Fiscal Year 2016 Medicare IPPS final rule impact file.

(c) Effective October 1, 2016 and for subsequent years on October 1, the HSP rate shall be updated in accordance with Section 8 of this administrative regulation.

(2)(a) The department shall compare the rate referenced in subsection (1) of this section with the operating rate calculated in Section 2(4)(c) of this administrative regulation.

(b) If the Section 2(4)(c) rate is higher, it shall be utilized as the hospital's operating rate for the period.

(c) 1. If the rate referenced in paragraph (a) of this subsection is higher, the department shall calculate the arithmetic difference between the two (2) rates.

2. The difference shall be multiplied by seventy-five (75) percent.

3. The resulting product shall be added to the Section 2(4)(c) rate to determine the hospital's operating rate for the period.

(d) If CMS terminates the Medicare-dependent hospital program, a hospital that is a Medicare-dependent hospital at the time that CMS terminates the program shall receive operating rates

as calculated in Section 2(4)(c) of this administrative regulation.

Section 7. 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 established in this subsection.

(a) A payment shall be made:

1. Separately from the per discharge and per diem payment methodologies; and

2. On an annual basis corresponding to the hospital's fiscal year.

(b) The department shall determine an annual payment amount for a hospital as established in subparagraphs 1 through 4 of this paragraph.

1. Total direct graduate medical education costs shall be obtained from a facility's as-filed CMS 2552 cost report, worksheet E-4, line 25.

2.a. The facility's Medicaid utilization shall be calculated by dividing Medicaid fee-for-service covered days during the cost report period, as reported by the Medicaid Management Information System, by total inpatient hospital days, as reported on worksheet E-4, line 27 of the CMS 2552 cost report.

b. The resulting Medicaid utilization factor shall be rounded to six (6) decimals.

3. The total graduate medical education costs referenced in subparagraph 1 of this paragraph shall be multiplied by the Medicaid utilization factor calculated in subparagraph 2 of this paragraph to determine the total graduate medical education costs related to the fee-for-service Medicaid program.

4. Medicaid program graduate medical education costs shall then be multiplied by ninety-five (95) percent to determine the annual payment amount.

Section 8. Reimbursement Updating Procedures. (1)(a) The department shall annually, effective October 1, update the Medicare grouper software to the most current version used by the Medicare program.

(b) If Medicare does not release a new grouper version effective October 1, the current grouper effective prior to October 1 shall remain in effect until a new grouper is released.

(2) At the time of the grouper update referenced in subsection (1) of this section, all DRG relative weights and geometric length-of-stay values shall be updated to match the most recent relative weights and geometric length-of-stay values effective for the Medicare program.

(3) Annually, on October 1, all values obtained from the Medicare IPPS final rule data tables and impact file shall be updated to reflect the most current Medicare IPPS final rule in effect.

(4) All Medicare IPPS final rule values utilized in this administrative regulation shall be updated to reflect any correction notices issued by CMS, if applicable.

(5) Except for an appeal in accordance with Section 22 of this administrative regulation, the department shall make no other adjustment.

Section 9. Universal Rate Year. (1) A universal rate year shall be established as October 1 of one (1) year through September 30 of the following year.

(2) A hospital shall not be required to change its fiscal year to conform with a universal rate year.

Section 10. 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. The Supplemental Medicaid Schedule KMAP-4; and
5. The Supplemental Medicaid Schedule KMAP-6.

(b) A document listed in paragraph (a) of this subsection 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) 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 11. 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 12. Readmissions. (1) An unplanned 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 an unplanned readmission with the same diagnosis shall be included in an initial admission payment and shall not be billed separately.

Section 13. Reimbursement for Out-of-State Hospitals. (1) The department shall reimburse an acute care out-of-state hospital for inpatient care on a fully prospective per discharge basis except for the following hospitals:

(a) 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

(b) Vanderbilt Medical Center.

(2) For an inpatient acute care service, except for a service not covered pursuant to 907 KAR 10:012, in an out-of-state acute care hospital the total hospital-specific per discharge payment shall be calculated in the same manner as an in-state hospital as described in Section 2(2) of this administrative regulation with modifications

VOLUME 41, NUMBER 10 – APRIL 1, 2015

to rates used as described in subsections (3) through (7) of this section.

(3) The DRG payment parameters listed in this subsection shall be modified for out-of-state hospitals not specifically excluded in subsection (1) of this section.

(a) The operating rate used in the calculation of the operating base payment described in Section 2(4)(c)1. of this administrative regulation shall equal the average of all in-state acute care hospital operating rates calculated in accordance with Section 2(4)(c) of this administrative regulation multiplied by eighty (80) percent, excluding any adjustments made for:

1. Sole community hospitals pursuant to Section 5 of this administrative regulation; or

2. Medicare-dependent hospitals pursuant to Section 6 of this administrative regulation.

(b) The capital rate used in the calculation of the capital base payment described in Section 2(4)(c)1. of this administrative regulation shall equal the average of all in-state acute care hospital capital rates calculated in accordance with Section 2(4)(c) of this administrative regulation multiplied by eighty (80) percent.

(c) The DRG relative weights used in the calculation of the operating base payment described in Section 2(4)(c)1. of this administrative regulation and the calculation of the capital base payment described in Section 2(4)(c)1. of this administrative regulation shall be reduced by twenty (20) percent.

(d) The following provisions shall not be applied:

1. Medicare indirect medical education cost or reimbursement;

2. Organ acquisition cost settlements;

3. Disproportionate share hospital distributions; and

4. Any adjustment mandated for in-state hospitals pursuant to KRS 205.638.

(e) The Medicare operating and capital cost-to-charge ratios used to estimate the cost of each discharge, for purposes of comparing the estimated cost of each discharge to the outlier threshold, shall be determined by calculating the arithmetic mean of all in-state cost-to-charge ratios established in accordance with Section 2(5)(d) of this administrative regulation.

(4) 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, the average operating rate and average capital rate paid to in-state children's hospitals.

(5) The department shall reimburse for inpatient care provided by Vanderbilt Medical Center using 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.

(6) The out-of-state hospitals referenced in subsections (4) and (5) of this section shall not be eligible to receive indirect medical education reimbursement, organ acquisition cost settlements, or disproportionate share hospital payments.

(7)(a) The department shall reimburse a hospital referenced in subsection (4) or (5) of this section a cost outlier payment for an approved discharge meeting Medicaid criteria for a cost outlier for each Medicare DRG.

(b) A cost outlier shall be subject to quality improvement organization review and approval.

(c) The department shall determine the cost outlier threshold for an out-of-state claim regarding a hospital referenced in subsection (4) or (5) using the same method used to determine the cost outlier threshold for an in-state claim.

Section 14. 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 an in-state non-state owned 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 and 7 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; 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 and 7 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.

(4) An overpayment made to a hospital under this section shall be recovered by subtracting the overpayment amount from a succeeding year's payment to be made to the hospital.

(5) For the purpose of this section, Medicaid patient days shall not include enrollee days.

(6) A payment made under this section shall not duplicate a payment made via 907 KAR 10:820.

(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 15. 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 inpatient service provided during a given state fiscal year 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 cost-center specific cost-to-charge ratios from the hospital's 2552 cost report.

VOLUME 41, NUMBER 10 – APRIL 1, 2015

(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 16. 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 17. New Provider, Change of Ownership, or Merged Facility. (1) The department shall reimburse a new acute care hospital based on the Medicare IPPS final rule inputs described in this administrative regulation in effect at the time of the hospital's enrollment with the Medicaid program.

(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.

(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; 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 10 of this administrative regulation.

Section 18. 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 in accordance with this administrative regulation for a service covered pursuant to:

- (1) 907 KAR 10:012; and
- (2) This administrative regulation.

Section 20. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the reimbursement; and
- (2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

Section 21. Matters Subject to an Appeal. A hospital may appeal whether the Medicare data specific to the hospital that was extracted by the department in establishing the hospital's reimbursement was the correct data.

Section 22. 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. Effective Date. This administrative regulation shall become effective on October 1, 2015.

Section 24. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Supplemental Medicaid Schedule KMAP-1"; 2013;
- (b) "Supplemental Medicaid Schedule KMAP-4"; 2013;
- (c) "Supplemental Medicaid Schedule KMAP-6"; 2013; and
- (d) "CMS Manual System Pub 100-03 Medicare National Coverage Determinations Transmittal 101", June 12, 2009.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at:

(a) The Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at <http://www.chfs.ky.gov/dms/incorporated.htm>.

LISA LEE, Commissioner

AUDREY TAYSE HAYNES, Secretary

APPROVED BY AGENCY: March 12, 2015

FILED WITH LRC: March 13, 2015 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2015 at 9:00 a.m. in the Health Services Auditorium, Suite C, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2015 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 April 30, 2015. 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: 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 provisions and requirements for care provided by inpatient acute care hospitals 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. This new administrative regulation introduces a new reimbursement model in which DMS's reimbursement shall equate to ninety-five (95) percent of each hospital's Medicare reimbursement excluding certain reimbursement components recognized by Medicare. The excluded components include a Medicare low-volume hospital payment, a Medicare end stage renal disease payment, a Medicare new technology add-on payment, a Medicare routine pass-through payment, a Medicare ancillary pass-through payment, a Medicare value-based purchasing payment or penalty, a Medicare readmission penalty, a Medicare hospital-acquired condition penalty, any type of Medicare payment implemented by Medicare after October 1, 2015, or any

type of Medicare payment not described in this administrative regulation. Previously, DMS reimbursed for such care based on a unique diagnosis-related group (DRG) model utilized by DMS.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish DMS's reimbursement provisions and requirements for care provided by inpatient acute care hospitals to Medicaid recipients who are not enrolled with a managed care organization. The new reimbursement model is necessary as DMS's current model – a DRG model – is incompatible with the new version of International Statistical Classification of Diseases and Related Health Problems (ICD) systems known as ICD-10. ICD-10 becomes effective on October 1, 2015 and DMS shall be unable to pay for acute care hospital claims effective October 1, 2015 unless it adopts a reimbursement model that is compatible with ICD-10. The Medicare Program reimbursement model for acute care inpatient hospitals is compatible with ICD-10 and is also a model with which Kentucky hospitals are familiar as they provide care to Medicare recipients.

(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 a reimbursement model for care provided by inpatient acute care hospitals to Medicaid that will be able to pay claims following international adoption of ICD-10.

(d) How this administrative regulation currently assists or shall assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing a reimbursement model for care provided by inpatient acute care hospitals to Medicaid that will be able to pay claims following international adoption of ICD-10.

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

(a) How the amendment shall 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 shall 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 government affected by this administrative regulation: The amendment applies to all inpatient acute care hospitals. 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) shall 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) shall have to take to comply with this administrative regulation or amendment. Hospitals will continue to need to annually submit cost report related documents to DMS.

(b) In complying with this administrative regulation or amendment, how much shall 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 shall accrue to the entities identified in question (3): Acute care inpatient hospitals will benefit from being able to be reimbursed for hospital care following implementation of ICD-10 and from receiving an additional \$2 million in the aggregate reimbursement pool for care to Medicaid fee-for-service recipients.

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

(a) Initially: DMS estimates that implementing the administrative regulation will increase DMS expenditures by \$1.5 million (\$1.05 million federal funds and \$0.45 million state funds) for the state fiscal year ending June 30, 2016 and by another \$0.5 million (\$0.35 million federal funds and \$0.15 million in state funds)

VOLUME 41, NUMBER 10 – APRIL 1, 2015

for the first three (3) months of the subsequent state fiscal year.

(b) On a continuing basis: DMS estimates that the expenditure increase described in paragraph (a) will plateau for future 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 shall 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 shall 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. Shall 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) shall be impacted by this administrative regulation? The Department for Medicaid Services (DMS) shall be impacted by the amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(2), and 42 U.S.C. 1396a(a)(30).

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 shall 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 shall 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 shall 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 shall 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:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of March 10, 2015

Members: Senators Julie Raque Adams, Perry Clark, Ernie Harris, and Alice Forgy Kerr; and Representatives Denver Butler, Mary Lou Marzian, and Tommy Turner.

LRC Staff: Donna Little, Sarah Amburgey, Carrie Klaber, Karen Howard, Emily Harkenrider, Ange Bertholf, and Betsy Cupp.

Guests: Andy Crocker, Personnel Board; Ryan Barron, Doug Hendrix, Sandy Williams, Finance Cabinet; Nathan Goldman, Board of Nursing; Rhonda Tapp Edwards, Ryan Holloran, Camille Skubik-Peplaski, Board of Licensing for Occupational Therapy; Tom Veit, Real Estate Appraisers Board; Charles Bush, Mark Cramer, Chris Garland, Fish and Wildlife; Jason Glass, Clint Quarles, Department of Agriculture; and Amy Barker, Corrections.

The Administrative Regulation Review Subcommittee met on Tuesday, January 13, 2015, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL BOARD: Board

101 KAR 1:325. Probationary periods. Andy Crocker, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Section 3 to clarify provisions. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Kentucky Private Activity Bond Allocation Committee

200 KAR 15:010 & E. Formula for allocation of private activity bonds. Doug Hendrix, deputy general counsel; Ryan Barrow, executive director, Office of Financial Management; and Sandy Williams, deputy executive director, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Sections 6, 7, 9, 10, and 12 to clarify provisions; and (3) to amend Sections 1, 6, 7, 8, 10, 14, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Nursing: Board

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses. Nathan Goldman, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 5 and 6 to correct citations; and (2) to amend Sections 2 and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Occupational Therapy: Board

201 KAR 28:010. Definitions and abbreviations. Rhonda Tapp Edwards, board member; Ryan Halloran, assistant attorney general; and Camille Skubik-Peplaski, chair, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the STATUTORY AUTHORITY paragraph to correct citations; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation,

as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:020. General provisions.

In response to questions by Co-Chair Harris, Ms. Skubik-Peplaski stated that this administrative regulation deleted the five (5) year limitation for reviewing the criminal history of a proposed licensee because the board believed it was in the public's best interest to review the entire criminal history. A conviction or civil violation did not automatically result in licensure denial. The board considered each conviction and civil violation prior to determining licensure.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a citation and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:030. Short-term practice of occupational therapy for persons practicing under KRS 319A.090(1)(e).

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:060. Requirements for licensure.

In response to a question by Co-Chair Harris, Ms. Edwards stated that the board could absorb expenses related to the examinations from carryover funds.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A; (4) to amend Section 5 to update edition dates of the material incorporated by reference; and (5) to update material incorporated by reference to be consistent with the regulatory changes and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:070. Examination.

In response to a question by Co-Chair Harris, Ms. Skubik-Peplaski stated that the thirty-five (35) dollar exam fee was borne by the licensee.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:090. Renewals.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 4 to comply with the drafting requirements of KRS

VOLUME 41, NUMBER 10 – APRIL 1, 2015

Chapter 13A; (3) to amend Section 3 to clarify there are two (2) reinstatement applications, one (1) for an occupational therapist and one (1) for the occupational therapy assistant; (4) to amend Section 4 to delete the requirement to complete a jurisprudence exam to renew a license; (5) to amend Section 5 to update the edition date of the renewal application and to incorporate by reference both applications for reinstatement; and (6) to update the material incorporated by reference to conform with regulatory changes and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:110. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a citation and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:130. Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders.

201 KAR 28:140. Code of ethics and unprofessional conduct.

In response to a question by Co-Chair Harris, Ms. Edwards stated that this administrative regulation was being amended to reorganize requirements for ease of use.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:170. Deep physical agent modalities.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1, 2, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A; (4) to amend Section 2 to establish the certification fee of twenty-five (25) dollars; (5) to amend Section 4 to allow a previously approved DPAM supervisor to maintain supervisor status until June 1, 2015 after which only a licensed occupational therapist who meets the requirements of this administrative regulation will remain an active supervisor; (6) to amend Section 6 to incorporate by reference the DPAM Specialty Certification Application and DPAM Specialty Certification Supervisor Application; and (7) to update the material incorporated by reference to correct citations and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:180. Temporary permits.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 and 4 to comply with the drafting requirements of KRS Chapter 13A; and (4) to include the updated edition of the Supervision Temporary Permit Form. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 28:200. Continuing competence.

A motion was made and seconded to approve the

following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend 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.

201 KAR 28:220. Per diem of board members.

In response to a question by Co-Chair Harris, Ms. Skubik-Peplaski stated that the board met monthly and that there were usually at least four (4) board members present for each meeting. Because the board was experiencing an increasing workload greater than many similar boards, it was necessary to raise the board members' per diem. For example, there were approximately 600 new licensees last year. The increased per diem would be reimbursed by carryover funds.

Real Estate Appraisers Board: Board

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure. Ryan Halloran, assistant attorney general, and Tom Veit, executive assistant, represented the board.

In response to a question by Co-Chair Harris, Mr. Veit stated that this administrative regulation provided an exemption for armed forces members.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3 and 4 to clarify that the armed forces exemption allows a member of the armed forces called to active duty during the specified time period additional time to complete the examination, education, and experience requirements pursuant to the 2008 Real Property Appraiser Qualification Criteria and those members are not required to complete the requirements in 201 KAR 30:050, 30:060, and 30:190 consistent with the new 2015 Real Property Appraiser Qualification Criteria required for all new applicants; and (2) to amend Section 5 to incorporate by reference the Real Property Appraiser Qualification Criteria. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:040. Standards of practice.

201 KAR 30:190. Educational requirements for certification.

In response to questions by Senator Clark, Mr. Veit stated that a licensure applicant shall have at least a four (4) year college degree, which is not required to be field specific. This requirement was the result of problems the board has recently had with insufficiently trained real estate appraisers. This would reduce the number of eligible applicants.

In response to questions by Co-Chair Harris, Mr. Veit stated that current licensees who did not meet the education requirements would be grandfathered in and able to maintain licensure unless the licensee failed to maintain licensure for some reason. The four (4) year college degree requirement was established in the authorizing statute.

201 KAR 30:200. Reciprocity requirements for applicants licensed or certified in another state.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees. Charles Bush, deputy commissioner; Mark Cramer, program coordinator; and Chris Garland, acting wildlife division director, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION,

VOLUME 41, NUMBER 10 – APRIL 1, 2015

AND CONFORMITY paragraph and Sections 1, 2, 4, 7, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Hunting and Fishing

301 KAR 3:100. Special commission permits.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1, 2, and 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.

DEPARTMENT OF AGRICULTURE: Office of Consumer Protection: Egg Marketing

302 KAR 10:110. Egg lot consolidation. Jason Glass, assistant director, and Clint Quarles, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:070. Kentucky Correctional Institution for Women. Amy Barker, assistant general counsel, represented the department.

In response to a question by Co-Chair Harris, Ms. Barker stated that this administrative regulation was part of the annual review of the policies and procedures for each correctional facility.

A motion was made and seconded to approve the following amendments: (1) to amend KCIW 10-01-01, 12-01-01, 13-04-02, 16-03-01, 18-05-03, and 21-01-01 to clarify procedures and make minor technical corrections; and (2) to amend Section 1 to update the edition dates of the revised policies. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the April 14, 2015, meeting of the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Office of Income Taxation: Forms

103 KAR 3:040 & E. Income Tax Forms Manual.

TRANSPORTATION CABINET: Office of the Secretary: Kentucky Bicycle and Bikeways Commission: Motorcycle and Bicycle Safety

601 KAR 14:020. Bicycle safety standards.

Department of Highways: Division of Maintenance: Billboards

603 KAR 10:001. Definitions.

603 KAR 10:010. Static advertising devices.

603 KAR 10:020. Electronic advertising devices.

603 KAR 10:030. Removal of vegetation related to advertising devices.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Administration and Finance

702 KAR 3:320. Finance officer certification requirements.

Instructional Programs

705 KAR 4:250. Energy technology engineering career pathway.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Data Reporting and Public Use Data Sets

900 KAR 7:030 & E. Data reporting by health care providers.

Department for Medicaid Services: Division of Provider Operations: Payment and Services

907 KAR 3:017 & E. Enhanced reimbursement for preventive and wellness services.

Division of Policy and Operations: Hospital Service Coverage and Reimbursement

907 KAR 10:825. Diagnosis-related group (DRG) inpatient hospital reimbursement.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

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

The Subcommittee adjourned at 10:25 a.m. until April 14, 2015, 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.

SENATE STANDING COMMITTEE ON HEALTH AND WELFARE
Meeting of February 4, 2015

The following administrative regulations were available for consideration and placed on the agenda of the Senate Standing Committee on Health and Welfare for its meeting of February 4, 2015, having been referred to the Committee on January 7, 2015, pursuant to KRS 13A.290(6):

900 KAR 6:060
900 KAR 6:065
900 KAR 10:030
901 KAR 5:025
902 KAR 21:010
902 KAR 100:010
902 KAR 100:019
902 KAR 100:042
902 KAR 100:058
902 KAR 100:070
902 KAR 100:072
902 KAR 100:100
902 KAR 100:142
911 KAR 1:085
922 KAR 1:360
922 KAR 5:070 & E
922 KAR 5:120 & E

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 4, 2015 meeting, which are hereby incorporated by reference.

SENATE STANDING COMMITTEE ON HEALTH AND WELFARE
Meeting of February 25, 2015

The following administrative regulations were available for consideration and placed on the agenda of the Senate Standing Committee on Health and Welfare for its meeting of February 25, 2015, having been referred to the Committee on February 4, 2015, pursuant to KRS 13A.290(6):

201 KAR 9:310
201 KAR 9:450
201 KAR 9:460
201 KAR 20:220
201 KAR 20:240
902 KAR 2:020
902 KAR 100:012
922 KAR 5:050

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 25, 2015 meeting, which are hereby incorporated by reference.

HOUSE STANDING COMMITTEE ON HEALTH AND WELFARE
Meeting of February 26, 2015

The following administrative regulations were available for consideration and placed on the agenda of the House Standing Committee on Health and Welfare for its meeting of February 26, 2015, having been referred to the Committee on February 4, 2015, pursuant to KRS 13A.290(6):

201 KAR 9:310
201 KAR 9:450
201 KAR 9:460
201 KAR 20:220
201 KAR 20:240
902 KAR 2:020
902 KAR 100:012
922 KAR 5:050

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 26, 2015 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

J - 2

The Locator Index lists all administrative regulations published in VOLUME 41 of the *Administrative Register of Kentucky* from July 2014 through June 2015. 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 40 are those administrative regulations that were originally published in VOLUME 40 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2014 Kentucky Administrative Regulations Service* was published.

KRS Index

J - 13

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 41 of the *Administrative Register of Kentucky*.

Technical Amendment Index

J - 23

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the *2014 Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.312(2), or 13A.320(1)(d). 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

J - 24

The Subject Index is a general index of administrative regulations published in VOLUME 41 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	40 Ky.R. Page No.	Effective Date	Regulation Number	40 Ky.R. Page No.	Effective Date
VOLUME 40					
The administrative regulations listed under VOLUME 40 are those administrative regulations that were originally published in Volume 40 (last year's) issues of the <i>Administrative Register of Kentucky</i> but had not yet gone into effect when the <i>2014 Kentucky Administrative Regulations Service</i> was published.					
SYMBOL KEY:					
* Statement of Consideration not filed by deadline					
** Withdrawn, not in effect within 1 year of publication					
*** Withdrawn before being printed in Register					
**** Emergency expired after 180 days					
(r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.					
<hr/>					
EMERGENCY ADMINISTRATIVE REGULATIONS:					
30 KAR 6:010E	2401	3-24-14			
Replaced		See 41 Ky.R.			
907 KAR 1:019E	1573	12-30-13			
Replaced	2703	7-7-14			
907 KAR 1:030E	1581	12-26-13			
Replaced	2709	7-7-14			
907 KAR 1:038E	1585	12-26-13			
Replaced	2712	7-7-14			
907 KAR 1:039E	1591	12-26-13			
Replaced	2716	7-7-14			
907 KAR 1:044E	1595	12-30-13			
Replaced	2718	7-7-14			
907 KAR 1:045E	1600	12-30-13			
Replaced	2721	7-7-14			
907 KAR 1:054E	1603	12-30-13			
Replaced	2722	7-7-14			
907 KAR 1:082E	1617	12-30-13			
Replaced	2736	7-7-14			
907 KAR 1:604E	1631	12-26-13			
Replaced	2749	7-7-14			
907 KAR 1:631E	1638	12-26-13			
Replaced	2755	7-7-14			
907 KAR 1:632E	1642	12-26-13			
Replaced	2757	7-7-14			
907 KAR 1:913E(r)	1646	12-26-13			
Expired		6-24-14			
907 KAR 3:005E	1648	12-26-13			
Replaced	2759	7-7-14			
907 KAR 8:005E	1655	12-26-13			
Replaced	2765	7-7-14			
907 KAR 8:010E	1657				
Reprinted	2095	12-26-13			
Replaced	2765	7-7-14			
907 KAR 8:015E	1660	12-26-13			
Replaced	2766	7-7-14			
907 KAR 8:020E	1662	12-26-13			
Replaced	2767	7-7-14			
907 KAR 8:025E	1665	12-26-13			
Replaced	2768	7-7-14			
907 KAR 8:030E	1668	12-26-13			
Replaced	2769	7-7-14			
907 KAR 8:035E	1671	12-26-13			
Replaced	2770	7-7-14			
907 KAR 10:014E	1673	12-26-13			
Replaced	2771	7-7-14			
907 KAR 12:020E	2109	2-6-14			
Withdrawn		7-8-14			
907 KAR 13:005E	1677	12-26-13			
Replaced	2776	7-7-14			
907 KAR 13:010E	1680	12-26-13			
Replaced	2776	7-7-14			
907 KAR 13:015E	1683	12-26-13			
			Replaced	2777	7-7-14
			907 KAR 15:005E	1686	12-30-13
			Replaced	2778	7-7-14
			907 KAR 15:010E	1688	
			Reprinted	2098	12-30-13
			Replaced	2779	7-7-14
			907 KAR 15:015E	1691	12-30-13
			Replaced	2788	7-7-14
			907 KAR 18:001E	2404	3-24-14
			Replaced		See 41 Ky.R.
			907 KAR 18:005E	2405	3-24-14
			Replaced		See 41 Ky.R.
			908 KAR 2:240E	2112	2-6-14
			Replaced	2793	6-18-14
			908 KAR 2:250E	2115	2-6-14
			Replaced	2795	6-18-14
			ORDINARY ADMINISTRATIVE REGULATIONS:		
			16 KAR 2:010		
			Amended	2584	See 41 Ky.R.
			16 KAR 4:060		
			Amended	2581	See 41 Ky.R.
			30 KAR 6:010	2646	See 41 Ky.R.
			102 KAR 1:270		
			Amended	2320	
			As Amended	2675	7-7-14
			102 KAR 1:320		
			Amended	2321	
			As Amended	2675	7-7-14
			103 KAR 43:330		
			Amended	2589	See 41 Ky.R.
			109 KAR 15:020		
			Amended	2194	
			As Amended	2411	
			As Amended	2678	6-25-14
			201 KAR 3:025		
			Amended	2325	7-7-14
			201 KAR 3:090		
			Amended	2326	
			As Amended	2678	7-7-14
			201 KAR 8:016	2385	
			As Amended	2679	See 41 Ky.R.
			201 KAR 8:532		
			Amended	2328	
			As Amended	2680	6-18-14
			201 KAR 8:550		
			Amended	2332	See 41 Ky.R.
			201 KAR 8:562		
			Amended	2338	
			As Amended	2683	6-18-14
			201 KAR 8:571		
			Amended	2343	See 41 Ky.R.
			201 KAR 9:300		
			Repealed	2648	8-1-14
			201 KAR 9:301(r)	2648	8-1-14
			201 KAR 9:305		
			Amended	2591	See 41 Ky.R.
			201 KAR 9:307		
			Amended	2592	See 41 Ky.R.
			201 KAR 11:011		
			Amended	2810	See 41 Ky.R.
			201 KAR 11:105		
			Amended	2811	See 41 Ky.R.
			201 KAR 11:121		
			Amended	2812	See 41 Ky.R.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	40 Ky.R. Page No.	Effective Date	Regulation Number	40 Ky.R. Page No.	Effective Date
201 KAR 14:085			Amended	2474	
Amended	1863	See 41 Ky.R.	603 KAR 10:030	2027	
201 KAR 14:090			Amended	2478	
Amended	2195		702 KAR 7:065		
As Amended	2686	7-7-14	Amended	2618	See 41 Ky.R.
201 KAR 14:115			704 KAR 3:345		
Amended	1866		Repealed	2925	8-11-14
As Amended	2688	7-7-14	704 KAR 3:346 (r)	2925	8-11-14
201 KAR 18:192			704 KAR 3:370	2651	See 41 Ky.R.
Amended	2593	See 41 Ky.R.	739 KAR 2:090	2231	
201 KAR 20:056			Amended	2798	See 41 Ky.R.
Amended	2596	See 41 Ky.R.	803 KAR 2:300		
201 KAR 20:057			Amended	2823	9-5-14
Amended	2599	See 41 Ky.R.	803 KAR 2:306		
201 KAR 20:161			Amended	2825	9-5-14
Amended	2602	See 41 Ky.R.	803 KAR 2:308		
201 KAR 20:360			Amended	2828	9-5-14
Amended	2346	See 41 Ky.R.	803 KAR 2:309		
201 KAR 20:370			Amended	2830	9-5-14
Amended	2605	See 41 Ky.R.	803 KAR 2:314		
201 KAR 20:411			Amended	2832	9-5-14
Amended	2607	See 41 Ky.R.	803 KAR 2:317		
201 KAR 20:450			Amended	2834	9-5-14
Amended	2609	See 41 Ky.R.	803 KAR 2:318		
201 KAR 22:040			Amended	2837	9-5-14
Amended	2612	See 41 Ky.R.	803 KAR 2:400		
201 KAR 22:160			Amended	2839	See 41 Ky.R.
Amended	2227	See 41 Ky.R.	803 KAR 2:404		
201 KAR 23:015			Amended	2841	9-5-14
Amended	2614	See 41 Ky.R.	803 KAR 2:406		
201 KAR 34:060	2387	See 41 Ky.R.	Amended	2843	See 41 Ky.R.
201 KAR 42:035			803 KAR 2:412		
Amended	2202	See 41 Ky.R.	Amended	2845	See 41 Ky.R.
201 KAR 42:040			803 KAR 2:421		
Amended	2204	See 41 Ky.R.	Amended	2849	9-5-14
201 KAR 42:060			803 KAR 2:423		
Amended	2206	See 41 Ky.R.	Amended	2851	9-5-14
201 KAR 42:080			803 KAR 2:500		
Amended	2207	See 41 Ky.R.	Amended	2852	9-5-14
201 KAR 42:110			803 KAR 2:505		
Amended	2210	See 41 Ky.R.	Amended	2854	See 41 Ky.R.
201 KAR 43:100	2649	See 41 Ky.R.	803 KAR 2:550		
301 KAR 1:201			Repealed	2926	9-5-14
Amended	2814	See 41 Ky.R.	803 KAR 2:551 (r)	2926	9-5-14
301 KAR 2:132			803 KAR 50:010		
Amended	2349		Amended	1440	
As Amended	2689	7-7-14	As Amended	2695	7-7-14
301 KAR 2:300			804 KAR 1:050		
Amended	2615	See 41 Ky.R.	Repealed	2391	7-7-14
500 KAR 8:030			804 KAR 1:051 (r)	2391	7-7-14
Amended	2219		804 KAR 1:100		
As Amended	2692	7-7-14	Amended	2857	9-5-14
501 KAR 6:020			804 KAR 9:050		
Amended	2353	See 41 Ky.R.	Amended	2358	
501 KAR 6:110			As Amended	2702	7-7-14
Amended	2819	See 41 Ky.R.	804 KAR 11:040	2927	10-3-14
505 KAR 1:110			806 KAR 30:020		
Amended	2821	See 41 Ky.R.	Amended	2622	See 41 Ky.R.
600 KAR 6:040			806 KAR 38:100		
Amended	2355	7-1-14	Amended	2623	See 41 Ky.R.
601 KAR 1:230	2389		806 KAR 47:010		
As Amended	2694	7-1-14	Amended	2629	See 41 Ky.R.
601 KAR 14:020			815 KAR 7:120		
Amended	2223		Amended	2630	8-1-14
603 KAR 10:001	2019		815 KAR 7:125		
Amended	2453		Amended	2633	8-1-14
603 KAR 10:010			900 KAR 6:055		
Amended	1889		Amended	2858	See 41 Ky.R.
Amended	2456		900 KAR 6:070		
603 KAR 10:020	2022		Amended	2860	See 41 Ky.R.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	40 Ky.R. Page No.	Effective Date	Regulation Number	40 Ky.R. Page No.	Effective Date
900 KAR 6:075			907 KAR 8:005	2038	
Amended	2862	See 41 Ky.R.	As Amended	2765	7-7-14
900 KAR 7:030			907 KAR 8:010	2040	
Amended	2865	See 41 Ky.R.	As Amended	2765	7-7-14
902 KAR 30:001			907 KAR 8:015	2043	
Amended	2869	See 41 Ky.R.	Amended	2547	
902 KAR 30:110			As Amended	2766	7-7-14
Amended	2872	See 41 Ky.R.	907 KAR 8:020	2045	
902 KAR 30:120			As Amended	2767	7-7-14
Amended	2876	See 41 Ky.R.	907 KAR 8:025	2048	
902 KAR 30:130			Amended	2550	
Amended	2879	See 41 Ky.R.	As Amended	2768	7-7-14
902 KAR 30:150			907 KAR 8:030	2051	
Amended	2883	See 41 Ky.R.	As Amended	2769	7-7-14
902 KAR 30:160			907 KAR 8:035	2054	
Amended	2887	10-15-14	Amended	2552	
902 KAR 30:180			As Amended	2770	7-7-14
Amended	2889	See 41 Ky.R.	907 KAR 10:014		
902 KAR 30:200			Amended	2009	
Amended	2893	10-15-14	Amended	2554	
902 KAR 55:045			As Amended	2771	7-7-14
Amended	2635	See 41 Ky.R.	907 KAR 10:825		
902 KAR 55:090			Amended	1491	
Amended	2639	9-17-14	Amended	2305	
907 KAR 1:019			Withdrawn		3-16-14
Amended	1933		907 KAR 13:005	2056	
As Amended	2703	7-7-14	As Amended	2776	7-7-14
907 KAR 1:030			907 KAR 13:010	2058	
Amended	1941		Amended	2560	
As Amended	2709	7-7-14	As Amended	2776	7-7-14
907 KAR 1:038			907 KAR 13:015	2062	
Amended	1945		As Amended	2777	7-7-14
Amended	2481		907 KAR 15:005	2064	
As Amended	2712	7-7-14	Amended	2564	
907 KAR 1:039			As Amended	2778	7-7-14
Amended	1951		907 KAR 15:010	2066	
As Amended	2716	7-7-14	Amended	2566	
907 KAR 1:044			As Amended	2779	7-7-14
Amended	1955		907 KAR 15:015	2076	
Amended	2487		Amended	2577	
As Amended	2718	7-7-14	As Amended	2788	7-7-14
907 KAR 1:045			907 KAR 18:001	2658	See 41 Ky.R.
Amended	1959		907 KAR 18:005	2660	See 41 Ky.R.
Amended	2492		908 KAR 2:240	2234	
As Amended	2721	7-7-14	As Amended	2793	6-18-14
907 KAR 1:054			908 KAR 2:250	2236	
Amended	1962		As Amended	2795	6-18-14
Amended	2495		910 KAR 2:040		
As Amended	2722	7-7-14	Amended	2361	
907 KAR 1:082			AmComments	2801	See 41 Ky.R.
Amended	1977		921 KAR 1:430		
Amended	2510		Amended	2642	8-1-14
As Amended	2736	7-7-14	921 KAR 2:055		
907 KAR 1:604			Amended	2369	See 41 Ky.R.
Amended	1991		921 KAR 2:060		
Amended	2524		Amended	2910	9-5-14
As Amended	2749	7-7-14	921 KAR 3:030		
907 KAR 1:631			Amended	2912	9-5-14
Amended	1998		921 KAR 3:042		
Amended	2532		Amended	2914	9-5-14
As Amended	2755	7-7-14	921 KAR 3:050		
907 KAR 1:632			Amended	2917	9-5-14
Amended	2034		921 KAR 3:060		
As Amended	2536		Amended	2921	9-5-14
907 KAR 1:835			921 KAR 3:070		
Amended	2899	See 41 Ky.R.	Amended	2373	See 41 Ky.R.
907 KAR 3:005			922 KAR 1:320		
Amended	2002		Amended	2377	See 41 Ky.R.
Amended	2540		922 KAR 1:480		
As Amended	2759	7-7-14	Amended	2382	9-5-14

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
VOLUME 41					
SYMBOL KEY:			907 KAR 15:040E	996	9-16-14
* Statement of Consideration not filed by deadline			907 KAR 15:045E	1002	9-16-14
** Withdrawn before being printed in Register			907 KAR 15:050E	1004	9-16-14
**** Emergency expired after 180 days			907 KAR 15:055E	1010	9-16-14
(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.			907 KAR 15:060E	1012	9-16-14
			907 KAR 15:065E	1018	9-16-14
			907 KAR 15:070E	727	8-20-14
			Replaced	1803	3-6-15
			907 KAR 15:075E	732	8-20-14
			Replaced	1807	3-6-15
			907 KAR 18:001E		See 40 Ky.R.
			Replaced	44	8-1-14
			907 KAR 18:005E		See 40 Ky.R.
			Replaced	44	8-1-14
			908 KAR 2:220E	1766	1-7-15
			908 KAR 2:230E	1770	1-7-15
			908 KAR 2:260E	1773	1-7-15
			921 KAR 2:015E	1776	12-30-14
			922 KAR 1:360E	417	8-1-14
			Replaced	1660	2-5-15
			922 KAR 2:160E	423	8-1-14
			Replaced	1021	10-15-14
			922 KAR 5:070E	432	7-23-14
			Replaced	1665	2-5-15
			922 KAR 5:120E	436	7-23-14
			Replaced	1668	2-5-15
			ORDINARY ADMINISTRATIVE REGULATIONS:		
13 KAR 2:045E	2062	3-2-15	11 KAR 3:100		
30 KAR 6:010E		See 40 Ky.R.	Amended	817	
Replaced	10	8-1-14	As Amended	1485	2-6-15
31 KAR 4:130E	367	7-22-14	11 KAR 4:080		
Replaced	1031	12-5-14	Amended	1124	
31 KAR 4:140E	372	7-22-14	As Amended	1493	2-6-15
Replaced	1033	12-5-14	Amended	2099	
31 KAR 5:010E	375	7-22-14	11 KAR 5:001		
Replaced	1035	12-5-14	Amended	828	
101 KAR 2:210E	717	9-15-14	As Amended	1494	2-6-15
Replaced	845	1-5-15	11 KAR 5:033		
103 KAR 3:030E	1958	1-16-15	Amended	831	
103 KAR 3:040E	1742	12-31-14	As Amended	1496	2-6-15
103 KAR 15:180E	4	6-5-14	11 KAR 5:034		
Replaced	439	10-3-14	Amended	832	
200 KAR 15:010E	1752	12-19-14	As Amended	1496	2-6-15
201 KAR 21:090E	1969	2-10-15	11 KAR 5:145		
301 KAR 2:221E	1300	10-27-14	Amended	2100	
Replaced	1444	3-6-15	11 KAR 5:170		
301 KAR 2:222E	1302	10-27-14	Amended	834	
Replaced	1446	3-6-15	As Amended	1497	2-6-15
301 KAR 2:225E	719	8-22-14	11 KAR 8:030		
Replaced	859	1-5-15	Amended	835	
405 KAR 8:030E	379	8-6-14	As Amended	1497	2-6-15
Replaced	1314	1-5-15	11 KAR 15:010		
405 KAR 8:040E	389	8-6-14	Amended	2102	
Replaced	1324	1-5-15	11 KAR 15:060		
405 KAR 10:025E	235	6-30-14	Amended	839	
Replaced	1053	12-5-14	As Amended	1500	2-6-15
601 KAR 1:112E	1481	12-5-14	11 KAR 15:090		
804 KAR 4:230E	237	7-15-14	Amended	1125	
Replaced	761	10-31-14	As Amended	1501	2-6-15
804 KAR 4:400E	239	7-15-14	Amended	2104	
Replaced	762	10-31-14	11 KAR 16:001		
804 KAR 4:410E	240	7-15-14	Amended	841	
Replaced	762	10-31-14	Withdrawn		12-1-14
900 KAR 7:030E	1755	12-31-14	11 KAR 16:010		
902 KAR 20:430E	242	7-15-14	Amended	843	
Replaced	1346	12-17-14			
902 KAR 20:440E	250	7-15-14			
Replaced	1355	12-17-14			
907 KAR 1:045E	1759	12-31-14			
907 KAR 1:516E(r)	995	9-16-14			
Expires		3-15-15			
907 KAR 3:005E	721	8-20-14			
Replaced	1798	3-6-15			
907 KAR 3:017E	1764	12-31-14			
907 KAR 15:005E	401	7-22-14			
Replaced	1647	2-6-15			
907 KAR 15:020E	404	7-22-14			
Replaced	1648	2-6-15			
907 KAR 15:025E	413	7-22-14			
Replaced	1656	2-6-15			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
Withdrawn		12-1-14	103 KAR 15:180		
11 KAR 19:010			Amended	85	
As Amended	1130		As Amended	439	
11 KAR 20:001	1504	2-6-15	103 KAR 43:330		See 40 Ky.R.
As Amended	1240		As Amended	12	8-1-14
11 KAR 20:010	1506	2-6-15	105 KAR 1:291	1253	2-6-15
As Amended	1241		105 KAR 1:410	1254	
11 KAR 20:020	1506	2-6-15	As Amended	1511	2-6-15
As Amended	1242		200 KAR 1:015	670	
11 KAR 20:030	1507	2-6-15	As Amended	1308	1-5-15
As Amended	1244		200 KAR 15:010		
11 KAR 20:040	1508	2-6-15	Amended	1852	
As Amended	1245		As Amended	2068	
11 KAR 20:050	1508	2-6-15	200 KAR 40:010		
As Amended	1246		Amended	1701	
11 KAR 20:060	1508	2-6-15	As Amended	1973	
As Amended	1248		200 KAR 40:020		
11 KAR 20:070	1509	2-6-15	Amended	1703	
As Amended	1249		As Amended	1974	
13 KAR 2:045			201 KAR 1:190		
Amended	2108		Amended	548	
16 KAR 2:010		See 40 Ky.R.	As Amended	1036	12-5-14
As Amended	8	8-1-14	201 KAR 2:030		
16 KAR 2:120			Amended	298	
Amended	533	1-5-15	As Amended	738	10-15-14
16 KAR 4:060		See 40 Ky.R.	201 KAR 2:040		
As Amended	256	9-5-14	Amended	300	
16 KAR 5:060	1251		As Amended	739	10-15-14
As Amended	1510	2-6-15	201 KAR 5:055	672	
16 KAR 6:010			As Amended	1040	
Amended	1698		As Amended	1308	11-19-14
As Amended	1971		201 KAR 8:016		See 40 Ky.R.
16 KAR 9:080			As Amended	257	6-18-14
Amended	295		201 KAR 8:550		See 40 Ky.R.
As Amended	736	10-31-14	Am Comments	56	9-5-14
30 KAR 6:010		See 40 Ky.R.	201 KAR 8:571		See 40 Ky.R.
As Amended	10	8-1-14	As Amended	257	9-5-14
31 KAR 3:030	669		201 KAR 9:270	1257	
As Amended	1031	12-5-14	AmComments	1670	
31 KAR 4:130			As Amended	1975	
Amended	536		201 KAR 9:305		See 40 Ky.R.
As Amended	1031	12-5-14	As Amended	12	8-1-14
31 KAR 4:140			201 KAR 9:307		See 40 Ky.R.
Amended	541		As Amended	13	8-1-14
As Amended	1033	12-5-14	201 KAR 9:310		
31 KAR 5:010			A mended	1132	
Amended	544		As Amended	1783	2-26-15
As Amended	1035	12-5-14	201 KAR 9:450		
101 KAR 1:325			Amended	1135	2-26-15
Amended	1839		201 KAR 9:460		
As Amended	2067		Amended	1136	
101 KAR 2:102			As Amended	1784	2-26-15
Amended	2113		201 KAR 10:050		
101 KAR 2:105			Amended	2131	
Amended	2118		201 KAR 11:011		See 40 Ky.R.
101 KAR 2:106			As Amended	740	10-31-14
Amended	2120		201 KAR 11:105		See 40 Ky.R.
101 KAR 2:160			As Amended	741	10-31-14
Amended	2121		201 KAR 11:121		See 40 Ky.R.
101 KAR 2:180			As Amended	741	10-31-14
Amended	2123		201 KAR 14:085		See 40 Ky.R.
101 KAR 2:210			As Amended	13	8-1-14
Amended	845		201 KAR 15:015	336	
101 KAR 3:015			As Amended	1041	12-5-14
Amended	2125		201 KAR 18:192		See 40 Ky.R.
103 KAR 3:030			As Amended	15	8-1-14
Amended	2015		201 KAR 20:056		See 40 Ky.R.
103 KAR 3:040			As Amended	17	8-1-14
Amended	1841		201 KAR 20:057		See 40 Ky.R.
			As Amended	19	7-16-14

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
Amended	1854		Amended	553	
As Amended	2070		As Amended	1042	12-5-14
201 KAR 20:161		See 40 Ky.R. 8-1-14	201 KAR 30:190		
As Amended	22		Amended	1862	
201 KAR 20:220			201 KAR 30:200		
Amended	1415		Amended	556	
As Amended	1785	2-26-15	As Amended	1043	12-5-14
201 KAR 20:240			Amended	1866	
Amended	1417	2-26-15	As Amended	2086	
201 KAR 20:360		See 40 Ky.R. 8-1-14	201 KAR 31:100	210	
As Amended	24		As Amended	441	10-3-14
201 KAR 20:370		See 40 Ky.R. 8-1-14	201 KAR 32:035		
As Amended	26		Amended	558	
201 KAR 20:411		See 40 Ky.R. 8-1-14	As Amended	1044	11-19-14
As Amended	27		201 KAR 33: 010		
201 KAR 20:450		See 40 Ky.R. 8-1-14	Amended	560	11-19-14
As Amended	29		201 KAR 34:060		See 40 Ky.R. 8-1-14
201 KAR 21:090			As Amended	33	
Amended	2026		201 KAR 36:060		
201 KAR 22:040		See 40 Ky.R. 8-1-14	Amended	302	
As Amended	31		As Amended	1309	12-17-14
201 KAR 22:160		See 40 Ky.R. 8-1-14	201 KAR 36:070		
As Amended	32		Amended	305	
201 KAR 23:015		See 40 Ky.R. 8-1-14	AmComments	1077	
As Amended	32		As Amended	1311	12-17-14
201 KAR 28:010			201 KAR 36:080	337	
Amended	1419		As Amended	1312	12-17-14
As Amended	2073		201 KAR 37:010		
201 KAR 28:020			Amended	562	
Amended	1421		As Amended	1046	12-5-14
As Amended	2075		201 KAR 40:020		
201 KAR 28:030			Recodified as 791 KAR 1:020		6-12-14
Amended	1422		201 KAR 40:025		
As Amended	2075		Recodified as 791 KAR 1:025		6-12-14
201 KAR 28:060			201 KAR 40:027		
Amended	1424		Recodified as 791 KAR 1:027		6-12-14
As Amended	2075		201 KAR 40:030		
201 KAR 28:070			Recodified as 791 KAR 1:030		6-12-14
Amended	1426		201 KAR 40:035		
As Amended	2076		Recodified as 791 KAR 1:035		6-12-14
201 KAR 28:090			201 KAR 40:040		
Amended	1427		Recodified as 791 KAR 1:040		6-12-14
As Amended	2076		201 KAR 40:050		
201 KAR 28:110			Recodified as 791 KAR 1:050		6-12-14
Amended	1429		201 KAR 40:060		
As Amended	2077		Recodified as 791 KAR 1:060		6-12-14
201 KAR 28:130			201 KAR 40:070		
Amended	1430		Recodified as 791 KAR 1:070		6-12-14
201 KAR 28:140			201 KAR 40:080		
Amended	1432		Recodified as 791 KAR 1:080		6-12-14
As Amended	2077		201 KAR 40:090		
201 KAR 28:170			Recodified as 791 KAR 1:090		6-12-14
Amended	1436		201 KAR 40:100		
As Amended	2080		Recodified as 791 KAR 1:100		6-12-14
201 KAR 28:180			201 KAR 40:150		
Amended	1438		Recodified as 791 KAR 1:150		6-12-14
As Amended	2081		201 KAR 40:155		
201 KAR 28:200			Recodified as 791 KAR 1:155		6-12-14
Amended	1440		201 KAR 40:160		
As Amended	2082		Recodified as 791 KAR 1:160		6-12-14
201 KAR 28:220			201 KAR 42:035		See 40 Ky.R. 10-3-14
Amended	1443		As Amended	441	
201 KAR 30:030			201 KAR 42:040		See 40 Ky.R. 10-3-14
Amended	1858		As Amended	442	
As Amended	2084		201 KAR 42:060		See 40 Ky.R. 10-3-14
201 KAR 30:040			As Amended	443	
Amended	1861		201 KAR 42:080		See 40 Ky.R. 10-3-14
201 KAR 30:125			As Amended	444	
Amended	552	12-5-14	201 KAR 42:110		See 40 Ky.R. 10-3-14
201 KAR 30:180			As Amended	446	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
201 KAR 44:010			Amended	859	1-5-15
Amended	2132		301 KAR 2:251		
201 KAR 44:090			Amended	1451	
Amended	307		AmComments	1809	
Withdrawn		9-19-14	Withdrawn		2-6-15
201 KAR 44:110			301 KAR 3:100		
Amended	308		Amended	1885	
Withdrawn		9-19-14	As Amended	2088	
201 KAR 44:120			301 KAR 2:300		See 40 Ky.R.
Amended	310		As Amended	35	7-3-14
Withdrawn		9-19-14	302 KAR 10:110	1939	
201 KAR 43:100		See 40 Ky.R.	As Amended	2090	
As Amended	35	8-1-14	302 KAR 20:066		
201 KAR 45:110		See 40 Ky.R.	Amended	311	
Amended	88		As Amended	743	10-31-14
As Amended	447	10-3-14	302 KAR 20:110		
Amended	1705		Amended	2027	
201 KAR 45:120			302 KAR 20:120		
Amended	89		Amended	2030	
As Amended	448	10-3-14	401 KAR 8:200		
Amended	1707		Amended	316	
As Amended	1978		AmComments	807	
201 KAR 45:170	211		As Amended	1050	12-5-14
As Amended	448	10-3-14	401 KAR 8:300		
Amended	1709		Amended	318	
Withdrawn		1-30-15	As Amended	1050	12-5-14
201 KAR 45:180	213		401 KAR 8:700		
As Amended	449	10-3-14	Amended	320	
300 KAR 6:010			As Amended	1051	12-5-14
Amended	847		405 KAR 8:030		
AmComments	1364		Amended	567	
As Amended	1513	2-6-15	AmComments	1078	
301 KAR 1:015			As Amended	1314	1-5-15
Amended	1138		405 KAR 8:040		
As Amended	1518	2-6-15	Amended	578	
301 KAR 1:152			AmComments	1089	
Amended	854	1-5-15	As Amended	1324	1-5-15
301 KAR 1:201		See 40 Ky.R.	405 KAR 10:025	338	
As Amended	259	8-7-14	As Amended	1053	12-5-14
301 KAR 1:220			500 KAR 4:010		
Amended	856		Repealed	214	10-3-14
As Amended	1313	1-5-15	500 KAR 4:011	214	10-3-14
301 KAR 1:410			500 KAR 4:020		
Amended	564		Repealed	214	10-3-14
As Amended	1048	12-5-14	500 KAR 4:030		
301 KAR 2:049			Repealed	214	10-3-14
Amended	1710		500 KAR 4:040		
Withdrawn		2-6-15	Repealed	214	10-3-14
301 KAR 2:132			500 KAR 4:050		
Amended	1868		Repealed	214	10-3-14
301 KAR 2:140			500 KAR 4:060		
Amended	1140		Repealed	214	10-3-14
As Amended	1520	2-6-15	500 KAR 4:070		
301 KAR 2:144			Repealed	214	10-3-14
Amended	1142		500 KAR 4:080		
As Amended	1521	2-6-15	Repealed	214	10-3-14
301 KAR 2:172			501 KAR 1:080		
Amended	1873		Amended	2032	
AmComments	2092		501 KAR 6:020		See 40 Ky.R.
301 KAR 2:176			As Amended	38	8-1-14
Amended	1876		Amended	1887	
As Amended	2087		501 KAR 6:050		
301 KAR 2:178			Amended	862	
Amended	91	9-4-14	As Amended	1336	1-5-15
Amended	1878		501 KAR 6:060		
301 KAR 2:221			Amended	324	
Amended	1444	3-6-15	As Amended	1054	12-5-14
301 KAR 2:222			501 KAR 6:070		
Amended	1446	3-6-15	Amended	1889	
301 KAR 2:225			As Amended	2090	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
501 KAR 6:110		See 40 Ky.R.	705 KAR 4:250		
As Amended	263	9-5-14	Amended	1144	
503 KAR 1:060			AmComments	1672	
Amended	326		739 KAR 2:060		
As Amended	747		Amended	1146	
503 KAR 1:070			As Amended	1787	3-6-15
Amended	590		739 KAR 2:090		See 40 Ky.R.
As Amended	1055	12-5-14	As Amended	41	8-1-14
503 KAR 1:080			750 KAR 1:030	680	
Amended	591		As Amended	1340	1-5-15
As Amended	1056		791 KAR 1:010	215	
503 KAR 1:090			As Amended	748	10-31-14
Amended	593		791 KAR 1:020		
As Amended	1978		Amended	113	
503 KAR 1:100			As Amended	750	10-31-14
Amended	595		791 KAR 1:025		
As Amended	1057		Amended	118	
503 KAR 1:111(r)	1465		AmComments	473	
Withdrawn	*	1-15-15	As Amended	754	10-31-14
503 KAR 1:120			791 KAR 1:030		
Amended	327		Amended	121	
As Amended	747		As Amended	756	10-31-14
503 KAR 3:005			791 KAR 1:035		
Amended	97		Amended	123	
As Amended	449	10-3-14	As Amended	758	10-31-14
503 KAR 3:010			791 KAR 1:050		
Amended	98		Amended	125	
As Amended	450	10-3-14	As Amended	758	10-31-14
503 KAR 3:040			791 KAR 1:060		
Amended	104		Amended	127	
As Amended	454	10-3-14	As Amended	759	10-31-14
503 KAR 3:110			791 KAR 1:070		
Amended	108		Amended	129	
As Amended	458	10-3-14	As Amended	760	10-31-14
503 KAR 3:120	1466		791 KAR 1:090		
Withdrawn	*	1-15-15	Repealed	218	10-31-14
505 KAR 1:110		See 40 Ky.R.	791 KAR 1:091(r)	218	10-31-14
AmComments	472		803 KAR 1:010		
As Amended	1057		Amended	1150	
601 KAR 1:112	1725		As Amended	1526	2-6-15
AmComments	2095		803 KAR 1:035		
601 KAR 11:030			Amended	2045	
Amended	329	10-7-14	803 KAR 2:400		See 40 Ky.R.
702 KAR 1:160			As Amended	271	9-5-14
Amended	597		803 KAR 2:406		See 40 Ky.R.
AmComments	1101		As Amended	271	9-5-14
As Amended	1337	1-5-15	803 KAR 2:412		See 40 Ky.R.
702 KAR 3:320	1728		As Amended	271	9-5-14
AmComments	2012		803 KAR 2:505		See 40 Ky.R.
702 KAR 7:065		See 40 Ky.R.	As Amended	274	9-5-14
As Amended	39	8-1-14	804 KAR 4:070		
702 KAR 7:140			Repealed	341	10-31-14
Amended	600		804 KAR 4:230		
As Amended	1339	1-5-15	Amended	331	
703 KAR 5:120			As Amended	761	10-31-14
Repealed	674	2-6-15	804 KAR 4:350		
703 KAR 5:122(r)	674	2-6-15	Repealed	341	10-31-14
703 KAR 5:180			804 KAR 4:351(r)	341	10-31-14
Repealed	674	2-6-15	804 KAR 4:400		
703 KAR 5:200			Amended	333	
Amended	2034		As Amended	762	10-31-14
703 KAR 5:225			804 KAR 4:410		
Amended	2037		Amended	334	
703 KAR 5:240			As Amended	762	10-31-14
Amended	2042		804 KAR 4:420		
703 KAR 5:260	675		Repealed	341	10-31-14
As Amended	1522	2-6-15	804 KAR 7:011(r)	2180	
704 KAR 3:370		See 40 Ky.R.	804 KAR 10:030	682	
AmComments	61		804 KAR 10:031	1469	
As Amended	264	8-11-14	As Amended	1790	3-6-15

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
804 KAR 11:040		See 40 Ky.R.	Amended	626	
As Amended	462		AmComments	1374	
804 KAR 14:010	342		As Amended	1554	2-6-15
As Amended	763	10-31-14	815 KAR 6:040		
806 KAR 6:070			Amended	628	
Amended	864		As Amended	1791	3-6-15
As Amended	1341	1-5-15	815 KAR 6:080	685	
806 KAR 30:020		See 40 Ky.R.	As Amended	1793	3-6-15
As Amended	43	8-1-14	815 KAR 6:090	686	
806 KAR 37:010			AmComments	1376	
Amended	602		As Amended	1555	2-6-15
As Amended	1059	12-5-14	815 KAR 6:100	689	2-6-15
806 KAR 38:100		See 40 Ky.R.	815 KAR 7:120		
As Amended	274	9-5-14	Amended	1181	3-6-15
806 KAR 47:010		See 40 Ky.R.	815 KAR 8:010		
As Amended	43	8-1-14	Amended	1184	3-6-15
807 KAR 5:001			815 KAR 8:020		
Amended	131		Amended	1187	3-6-15
AmComments	476		815 KAR 8:060		
As Amended	763	10-31-14	Amended	1191	
Reprinted	983		Withdrawn		12-2-14
807 KAR 5:011			815 KAR 8:070		
Amended	143		Amended	1193	
As Amended	775	10-31-14	As Amended	1793	3-6-15
807 KAR 5:068			815 KAR 8:090		
Amended	148		Amended	1196	3-6-15
AmComments	489	10-31-14	815 KAR 20:015		
807 KAR 5:069			Amended	1197	3-6-15
Amended	150		815 KAR 20:030		
As Amended	779	10-31-14	Amended	1199	
807 KAR 5:075			As Amended	1795	3-6-15
Amended	153		815 KAR 20:040		
AmComments	492	10-31-14	Amended	166	
807 KAR 5:076			As Amended	463	9-24-14
Amended	156		815 KAR 20:050		
AmComments	494	10-31-14	Amended	167	9-24-14
807 KAR 5:110			Amended	1202	
Amended	160		815 KAR 20:060		
As Amended	780	10-31-14	Amended	169	9-24-14
807 KAR 5:120			815 KAR 20:070		
Amended	164		Amended	172	9-24-14
As Amended	782	10-31-14	815 KAR 20:090		
810 KAR 1:017			Amended	175	9-24-14
Amended	610		815 KAR 20:130		
As Amended	1344	1-5-15	Amended	179	9-24-14
810 KAR 1:027			815 KAR 20:191		
Amended	612		Amended	183	
As Amended	1066		As Amended	463	9-24-14
810 KAR 1:028			815 KAR 20:195		
Amended	1155		Amended	1204	
As Amended	1529	2-6-15	As Amended	1796	3-6-15
811 KAR 1:095			815 KAR 35:072	2048	
Amended	1164		900 KAR 2:050		
As Amended	1536	2-6-15	Amended	2133	
811 KAR 2:070			900 KAR 6:030		
Amended	616		Amended	190	9-17-14
As Amended	1068	12-5-14	900 KAR 6:055		See 40 Ky.R.
811 KAR 2:090			AmComments	498	
Amended	621		900 KAR 6:060		
As Amended	1345	1-5-15	Amended	631	
811 KAR 2:100			AmComments	1379	2-5-15
Amended	1172		900 KAR 6:065		
As Amended	1544	2-6-15	Amended	633	
815 KAR 6:001	683		AmComments	1381	
As Amended	1551	2-6-15	As Amended	1557	2-5-15
815 KAR 6:010			900 KAR 6:070		See 40 Ky.R.
Amended	623		AmComments	500	
AmComments	1371		As Amended	783	10-15-14
As Amended	1551	2-6-15	900 KAR 6:075		See 40 Ky.R.
815 KAR 6:030			AmComments	502	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
900 KAR 6:125			902 KAR 100:072		
Amended	192	9-17-14	Amended	921	
900 KAR 7:030		See 40 Ky.R.	As Amended	1612	2-5-15
AmComments	505	10-15-14	902 KAR 100:100		
Amended	1891		Amended	945	
900 KAR 10:030			As Amended	1635	2-5-15
Amended	1206		902 KAR 100:142		
As Amended	1560	2-5-15	Amended	953	
901 KAR 5:025	1260		As Amended	1642	2-5-15
As Amended	1566	2-5-15	907 KAR 1:044		
902 KAR 2:020			Amended	1910	
Amended	1213		907 KAR 1:045		
AmComments	1674	2-26-15	Amended	1915	
902 KAR 2:055			907 KAR 1:046	1940	
Amended	637		907 KAR 1:102		
As Amended	1072	11-19-14	Amended	1920	
902 KAR 4:030			907 KAR 1:350		
Amended	1222		Amended	2136	
902 KAR 4:041(r)	2051		907 KAR 1:515		
902 KAR 20:008			Repealed	995	9-16-14
Amended	194		907 KAR 1:520		
AmComments	809	12-17-14	Repealed	995	9-16-14
902 KAR 20:091			907 KAR 1:525		
Amended	1896		Repealed	995	9-16-14
902 KAR 20:400			907 KAR 1:530		
Amended	1905		Repealed	995	9-16-14
902 KAR 20:430	343		907 KAR 1:550		
AmComments	1104		Repealed	995	9-16-14
As Amended	1346	12-17-14	907 KAR 1:555		
902 KAR 20:440	351		Repealed	995	9-16-14
AmComments	1114		907 KAR 1:835		See 40 Ky.R.
As Amended	1355	12-17-14	AmComments	516	
902 KAR 21:010	1261		As Amended	796	10-31-14
As Amended	1567	2-5-15	907 KAR 3:005		
902 KAR 30:001		See 40 Ky.R.	Amended	959	
As Amended	784	10-15-14	AmComments	1686	
902 KAR 30:110		See 40 Ky.R.	As Amended	1798	3-6-15
As Amended	786	10-31-14	907 KAR 3:017	1943	
902 KAR 30:120		See 40 Ky.R.	907 KAR 3:110		
As Amended	788	10-15-14	Repealed	223	10-3-14
902 KAR 30:130		See 40 Ky.R.	907 KAR 3:111 (r)	223	10-3-14
As Amended	790	10-15-14	907 KAR 10:826(r)	2181	
902 KAR 30:150		See 40 Ky.R.	907 KAR 10:830	2182	
AmComments	509		907 KAR 15:005		
As Amended	793	10-15-14	Amended	639	
902 KAR 30:180		See 40 Ky.R.	AmComments	1385	
AmComments	513	10-15-14	As Amended	1647	2-6-15
902 KAR 55:045		See 40 Ky.R.	907 KAR 15:020	690	
AmComments	290	9-17-14	AmComments	1388	
902 KAR 95:040	219		As Amended	1648	2-6-15
As Amended	469	9-17-14	907 KAR 15:025	700	
902 KAR 100:010			AmComments	1398	
Amended	867		As Amended	1656	2-6-15
As Amended	1568	2-5-15	907 KAR 15:040	1263	
902 KAR 100:012			AmComments	1812	
Amended	882		As Amended	1979	
AmComments	1683		907 KAR 15:045	1268	
As Amended	1797	2-26-15	AmComments	1818	
902 KAR 100:019			907 KAR 15:050	1271	
Amended	885		AmComments	1821	
As Amended	1581	2-5-15	As Amended	1984	
902 KAR 100:042			907 KAR 15:055	1276	
Amended	897		AmComments	1827	
As Amended	1592	2-5-15	As Amended	1989	
902 KAR 100:058			907 KAR 15:060	1279	
Amended	907		AmComments	1830	
As Amended	1601	2-5-15	As Amended	1989	
902 KAR 100:070			907 KAR 15:065	1284	
Amended	914		AmComments	1836	
As Amended	1606	2-5-15	907 KAR 15:070	965	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	41 Ky.R. Page No.	Effective Date	Regulation Number	41 Ky.R. Page No.	Effective Date
AmComments	1692		Amended	655	
As Amended	1803	3-6-15	Amended	1229	
907 KAR 15:075	970		As Amended	2003	
As Amended	1807	3-6-15	922 KAR 5:050		
907 KAR 18:001		See 40 Ky.R.	Amended	1462	
As Amended	44	8-1-14	As Amended	1807	3-6-15
907 KAR 18:005		See 40 Ky.R.	922 KAR 5:070		
As Amended	44	8-1-14	Amended	664	
908 KAR 2:220			AmComments	1408	
Amended	1925		As Amended	1665	2-5-15
908 KAR 2:230			922 KAR 5:120	703	
Amended	1929		AmComments	1412	
908 KAR 2:260	1945		As Amended	1668	2-5-15
908 KAR 3:050					
Amended	642				
AmComments	1121	12-17-14			
908 KAR 3:060					
Amended	644				
As Amended	1360	12-17-14			
910 KAR 1:140					
Amended	2138				
910 KAR 1:170					
Amended	2143				
910 KAR 1:180					
Amended	200				
AmComments	527	10-15-14			
910 KAR 1:210					
Amended	2150				
910 KAR 1:220					
Amended	2157				
910 KAR 2:040		See 40 Ky.R.			
As Amended	48	8-1-14			
910 KAR 3:030					
Amended	1455				
As Amended	1994				
911 KAR 1:085					
Amended	1226				
As Amended	1658	2-5-15			
921 KAR 1:410					
Amended	1715				
As Amended	2000				
921 KAR 2:015					
Amended	1932				
921 KAR 2:055		See 40 Ky.R.			
AmComments	69				
As Amended	280	9-5-14			
921 KAR 3:030					
Amended	1719				
921 KAR 3:035					
Amended	205				
As Amended	1074	11-19-14			
921 KAR 3:045					
Amended	2177				
921 KAR 3:060					
Amended	1722				
921 KAR 3:070		See 40 Ky.R.			
AmComments	73				
As Amended	283	9-5-14			
921 KAR 3:090					
Amended	647	11-19-14			
922 KAR 1:320		See 40 Ky.R.			
AmComments	77				
As Amended	286	9-5-14			
922 KAR 1:360					
Amended	650				
AmComments	1402				
As Amended	1660	2-5-15			
922 KAR 1:480		See 40 Ky.R.			
AmComments	81				
922 KAR 2:160					

SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, not in effect within 1 year of publication
- *** Withdrawn before being printed in Register
- (r) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
KRS INDEX			
13A.100	105 KAR 1:291	40.460	201 KAR 37:010
	500 KAR 4:011	42.320	922 KAR 3:030
13A.190	902 KAR 20:043	42.470	103 KAR 3:030
	902 KAR 20:440	42.0171	200 KAR 40:010
13B	13 KAR 2:045		200 KAR 40:020
	900 KAR 7:030	44.045	200 KAR 40:010
	902 KAR 4:041		200 KAR 40:020
	908 KAR 3:060	45A.075	922 KAR 3:030
	910 KAR 1:140	45A.080	922 KAR 3:030
	911 KAR 1:085	58.200	815 KAR 20:191
	922 KAR 1:360	61.394	101 KAR 2:102
	922 KAR 3:030		101 KAR 3:015
	922 KAR 5:070	61.645	105 KAR 1:291
	922 KAR 5:120		105 KAR 1:410
13B.010	921 KAR 1:410	61.701	105 KAR 1:291
13B.010-170	910 KAR 1:180		105 KAR 1:410
13B.140	907 KAR 10:830	61.702	105 KAR 1:291
15.055	921 KAR 1:410		105 KAR 1:410
15.330	503 KAR 1:060	61.870-61.884	103 KAR 3:030
	503 KAR 1:070	61.878	601 KAR 1:112
	503 KAR 1:080	61.932	200 KAR 1:015
	503 KAR 1:090	61.933	200 KAR 1:015
	503 KAR 1:100	65.810	807 KAR 5:068
	503 KAR 1:111		807 KAR 5:069
	503 KAR 1:120		807 KAR 5:075
15.380	503 KAR 3:110	61.870-884	807 KAR 5:001
15.386	503 KAR 1:111		807 KAR 5:110
	503 KAR 3:120	61.874	201 KAR 20:240
15.3975	503 KAR 3:110	61.878	601 KAR 1:112
15.404	503 KAR 1:111	61.931-934	807 KAR 5:001
	503 KAR 1:120	65.810	807 KAR 5:001
15.440	503 KAR 1:111	67A.620	921 KAR 1:410
	503 KAR 1:120		807 KAR 5:068
15.450	503 KAR 1:060		807 KAR 5:075
15.530	500 KAR 4:011	72.020	501 KAR 6:050
15.530-15.590	503 KAR 3:040	72.025	501 KAR 6:050
15.540	500 KAR 4:011	74	807 KAR 5:001
15.550	500 KAR 4:011		807 KAR 5:068
15.560	500 KAR 4:011		807 KAR 5:069
15.570	500 KAR 4:011		807 KAR 5:075
15A.070	503 KAR 3:005	95A.040	739 KAR 2:060
	503 KAR 3:010	95.620	921 KAR 1:410
	503 KAR 3:120	95.878	921 KAR 1:410
17.500	601 KAR 1:112	103.200	200 KAR 15:010
	902 KAR 20:091	103.2101	200 KAR 15:010
	902 KAR 20:430	103.282	200 KAR 15:010
18A.005	101 KAR 1:325	103.286	200 KAR 15:010
18A.025	101 KAR 2:106	116.045	31 KAR 4:140
18A.030	101 KAR 2:102	116.048	921 KAR 3:030
	101 KAR 2:160	117.079	31 KAR 4:140
	101 KAR 2:210		31 KAR 5:010
	101 KAR 3:015	117.085	31 KAR 4:130
18A.110	101 KAR 2:102		31 KAR 4:140
	101 KAR 2:105	117.086	31 KAR 4:130
	101 KAR 2:160	117A.030	31 KAR 4:130
	101 KAR 2:180	117A.040	31 KAR 3:030
	101 KAR 3:015	117A.050	31 KAR 4:140
18A.111	101 KAR 1:325		31 KAR 5:010
18A.155	101 KAR 2:160	117A.060	31 KAR 4:140
18A.195	101 KAR 2:102		31 KAR 5:010
	101 KAR 3:015	117A.080	31 KAR 4:130
18A.196	101 KAR 2:105	117A.100	31 KAR 5:010
18A.197	101 KAR 2:105	117A.120	31 KAR 4:130
18A.203	101 KAR 2:106	117A.130	31 KAR 4:130
18A.225	101 KAR 2:210		31 KAR 5:010
18A.0751	101 KAR 1:325	117A.160	31 KAR 5:010
18A.2254	101 KAR 2:210	131.020	103 KAR 3:030
40.310	201 KAR 37:010	131.030	103 KAR 3:030
40.353	201 KAR 37:010	131.041	103 KAR 3:040

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
131.041-131.081	103 KAR 3:030		103 KAR 15:180
131.051	103 KAR 3:040	136.330	103 KAR 3:030
131.061	103 KAR 3:040		103 KAR 15:180
131.081	103 KAR 3:040	136.335	103 KAR 3:030
131.110	103 KAR 3:030	136.340	103 KAR 15:180
	103 KAR 3:040	136.350	103 KAR 15:180
131.130	103 KAR 3:030	136.370	103 KAR 15:180
	103 KAR 3:040	136.377	103 KAR 3:030
131.155	103 KAR 3:030	136.390	103 KAR 15:180
	103 KAR 3:040	136.545	103 KAR 3:030
131.170	103 KAR 3:040	136.575	103 KAR 3:030
131.180	103 KAR 3:040	136.600-136.660	103 KAR 3:030
131.181	103 KAR 3:030	136.1802-136.1806	103 KAR 3:030
131.183	103 KAR 3:030	136.1873	103 KAR 3:030
131.190	103 KAR 3:030	137.130	103 KAR 3:030
	103 KAR 3:040	137.160	103 KAR 3:030
131.250	103 KAR 3:040	141.010	103 KAR 3:040
131.340	103 KAR 3:030	141.0101	103 KAR 3:040
	103 KAR 3:040	141.011	103 KAR 3:040
131.500	103 KAR 3:030	141.016	103 KAR 3:040
	103 KAR 3:040	141.020	103 KAR 3:040
131.510	103 KAR 3:030		103 KAR 15:180
	103 KAR 3:040	141.0202	103 KAR 3:040
131.540	103 KAR 3:030	141.21	401 KAR 8:200
	103 KAR 3:040	141.030	103 KAR 3:040
131.570	921 KAR 1:410	141.040	103 KAR 3:040
132.010	815 KAR 7:120		103 KAR 15:180
132.020	103 KAR 3:030	141.0401	103 KAR 3:040
132.130-132.180	103 KAR 3:030	141.0405	103 KAR 3:040
132.190	103 KAR 3:030	141.041	103 KAR 3:040
132.200	103 KAR 3:030	141.042	103 KAR 3:040
132.220-132.270	103 KAR 3:030	141.044	103 KAR 3:040
132.290	103 KAR 3:030	141.42	401 KAR 8:300
132.310	103 KAR 3:030	141.43	401 KAR 8:300
132.320	103 KAR 3:030	141.52	401 KAR 8:200
132.360	103 KAR 3:030	141.0401	103 KAR 15:180
132.450	103 KAR 3:030	141.050	103 KAR 15:180
132.487	103 KAR 3:030	141.062	103 KAR 3:040
132.510	103 KAR 3:030	141.63	401 KAR 8:200
132.820	103 KAR 3:030	141.065	103 KAR 3:040
132.825	103 KAR 3:030	141.066	103 KAR 3:040
132.990	103 KAR 3:030	141.067	103 KAR 3:040
133.045	103 KAR 3:030	141.068	103 KAR 3:040
133.110	103 KAR 3:030	141.069	103 KAR 3:040
133.120	103 KAR 3:030	141.070	103 KAR 3:040
133.130	103 KAR 3:030	141.071	103 KAR 3:040
133.240	103 KAR 3:030	141.80-141.91	401 KAR 8:300
134.015	103 KAR 3:030	141.120	103 KAR 3:040
134.119	103 KAR 3:030	141.121	103 KAR 3:040
134.121	103 KAR 3:030	141.154	401 KAR 8:300
134.122	103 KAR 3:030	141.160	103 KAR 3:040
134.127	103 KAR 3:030	141.170	103 KAR 3:040
134.128	103 KAR 3:030	141.180	103 KAR 3:040
134.129	103 KAR 3:030	141.200	103 KAR 3:040
134.420	103 KAR 3:030	141.205	103 KAR 3:040
134.590	103 KAR 3:030	141.206	103 KAR 3:040
134.800	103 KAR 3:030	141.207	103 KAR 3:040
134.805	103 KAR 3:030	141.208	103 KAR 3:040
134.810	103 KAR 3:030	141.300	103 KAR 3:040
134.815	103 KAR 3:030	141.310	103 KAR 3:040
134.820	103 KAR 3:030	141.325	103 KAR 3:040
134.825	103 KAR 3:030	141.330	103 KAR 3:040
134.830	103 KAR 3:030	141.335	103 KAR 3:040
135.010	103 KAR 3:030	141.347	103 KAR 3:040
135.020	103 KAR 3:030	141.370	103 KAR 3:040
135.050	103 KAR 3:030	141.381	103 KAR 3:040
136.020	103 KAR 3:030	141.382	103 KAR 3:040
136.050	103 KAR 3:030	141.383	103 KAR 3:040
136.115-136.180	103 KAR 3:030	141.384	103 KAR 3:040
136.188	103 KAR 3:030	141.385	103 KAR 3:040
136.310	103 KAR 3:030	141.386	103 KAR 3:040
136.320	103 KAR 3:030	141.390	103 KAR 3:040

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
141.392	103 KAR 3:040		301 KAR 3:100
141.395	103 KAR 3:040	150.177	301 KAR 2:172
141.400	103 KAR 3:040	150.180	301 KAR 2:132
141.401	103 KAR 3:040		301 KAR 2:172
141.402	103 KAR 3:040		301 KAR 2:251
141.403	103 KAR 3:040	150.092	301 KAR 2:049
141.405	103 KAR 3:040	150.170	301 KAR 2:049
141.407	103 KAR 3:040	150.235	301 KAR 1:410
141.412	103 KAR 3:040	150.305	301 KAR 2:140
141.415	103 KAR 3:040		301 KAR 2:144
141.418	103 KAR 3:040		301 KAR 2:221
141.420	103 KAR 3:040		301 KAR 2:222
141.421	103 KAR 3:040	150.330	301 KAR 2:221
141.423	103 KAR 3:040		301 KAR 2:222
141.424	103 KAR 3:040		301 KAR 2:225
141.4242	103 KAR 3:040	150.340	301 KAR 1:220
141.4244	103 KAR 3:040		301 KAR 2:178
141.428	103 KAR 3:040		301 KAR 2:221
141.430	103 KAR 3:040		301 KAR 2:222
141.432	103 KAR 15:180		301 KAR 2:225
141.433	103 KAR 3:040	150.360	301 KAR 2:049
	103 KAR 15:180		301 KAR 2:140
141.434	103 KAR 3:040		301 KAR 2:144
	103 KAR 15:180		301 KAR 2:176
141.436	103 KAR 3:040	150.370	301 KAR 2:178
141.437	103 KAR 3:040		301 KAR 2:251
141.438	103 KAR 3:040	150.390	301 KAR 2:144
141.444	201 KAR 37:010		301 KAR 2:176
141.985	103 KAR 3:040	150.399	301 KAR 2:049
141.990	103 KAR 3:040		301 KAR 2:251
142.303	907 KAR 10:830	150.411	301 KAR 2:172
143.030	103 KAR 3:030	150.415	301 KAR 2:251
143.037	103 KAR 3:030	150.416	301 KAR 2:251
143.040	103 KAR 3:030	150.440	301 KAR 1:220
143.050	103 KAR 3:030	150.445	301 KAR 1:152
143.060	103 KAR 3:030		301 KAR 1:220
143.085	103 KAR 3:030		301 KAR 1:410
143.990	103 KAR 3:030	150.450	301 KAR 1:152
143A.010	103 KAR 3:030		301 KAR 1:220
143A.030	103 KAR 3:030	150.470	301 KAR 1:220
143A.035	103 KAR 3:030	150.603	301 KAR 2:225
143A.037	103 KAR 3:030	150.620	301 KAR 1:410
143A.080	103 KAR 3:030	150.625	301 KAR 1:015
143A.090	103 KAR 3:030	150.720-150.740	302 KAR 20:066
143A.100	103 KAR 3:030	150.990	301 KAR 1:015
143A.991	103 KAR 3:030		301 KAR 1:152
150.010	301 KAR 1:152		301 KAR 1:410
	301 KAR 1:410		301 KAR 2:049
	301 KAR 2:049		301 KAR 2:132
	301 KAR 2:132		301 KAR 2:140
	301 KAR 2:140		301 KAR 2:144
	301 KAR 2:144		301 KAR 2:172
	301 KAR 2:172		301 KAR 2:176
	301 KAR 2:176		301 KAR 2:178
	301 KAR 2:178		301 KAR 2:221
	301 KAR 2:221		301 KAR 2:222
	301 KAR 2:222		301 KAR 2:251
150.025	301 KAR 2:221	150.995	301 KAR 2:251
150.090	301 KAR 1:015		301 KAR 2:049
150.170	301 KAR 1:152	154.12-2086	103 KAR 3:040
	301 KAR 1:410	154.20-50	103 KAR 3:040
	301 KAR 2:132	154.22-060	103 KAR 3:040
	301 KAR 2:140	154.23-0035	103 KAR 3:040
	301 KAR 2:144	154.24-110	103 KAR 3:040
	301 KAR 2:178	154.25-030	103 KAR 3:040
	301 KAR 2:251	154.26-090	103 KAR 3:040
	301 KAR 3:100	154.28-090	103 KAR 3:040
150.175	301 KAR 1:152	154.32-010	103 KAR 3:040
	301 KAR 1:410	154.34-080	103 KAR 3:040
	301 KAR 2:140	154.48-0025	103 KAR 3:040
	301 KAR 2:144	154A.130	11 KAR 15:090
	301 KAR 2:176	155.170	103 KAR 3:040

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
156.111	16 KAR 9:080		11 KAR 4:080
156.160	702 KAR 1:160		11 KAR 5:170
156.501	702 KAR 1:160	164.753	11 KAR 3:100
156.502	702 KAR 1:160		11 KAR 4:080
157.320	702 KAR 7:140		11 KAR 5:033
157.350	702 KAR 7:140		11 KAR 5:034
157.390	16 KAR 2:120		11 KAR 5:145
157.618	750 KAR 1:030		11 KAR 5:170
158.035	702 KAR 1:160		11 KAR 8:030
	902 KAR 2:055	164.769	11 KAR 4:080
158.060	702 KAR 7:140		11 KAR 8:030
158.070	702 KAR 7:140	164.772	804 KAR 4:440
158.160	702 KAR 1:160	164.780	11 KAR 4:080
158.645	703 KAR 5:225		11 KAR 5:033
158.6451	703 KAR 5:122		11 KAR 5:170
	703 KAR 5:200	164.785	11 KAR 4:080
	703 KAR 5:225		11 KAR 5:033
	703 KAR 5:240		11 KAR 5:170
158.6453	703 KAR 5:122	164.945	16 KAR 5:060
	703 KAR 5:200	164.946	16 KAR 5:060
	703 KAR 5:225	164.947	16 KAR 5:060
	703 KAR 5:240	164.7535	11 KAR 4:080
	703 KAR 5:260		11 KAR 5:034
158.6455	703 KAR 5:122		11 KAR 5:145
	703 KAR 5:200		11 KAR 5:170
	703 KAR 5:225	164.7871	11 KAR 15:090
	703 KAR 5:240	164.7871-164.7885	11 KAR 15:010
	703 KAR 5:260		11 KAR 15:060
158.782	703 KAR 5:122	164.7874	11 KAR 15:090
	703 KAR 5:260	164.7877	11 KAR 15:090
158.805	703 KAR 5:122	164.7879	11 KAR 15:090
158.808	705 KAR 4:250	164.7881	11 KAR 15:090
158.810	705 KAR 4:250	164.7885	11 KAR 15:090
158.860	703 KAR 5:200	164.7889	11 KAR 5:145
160.345	16 KAR 9:080		11 KAR 15:090
160.346	703 KAR 5:122	164.7890	11 KAR 4:080
160.431	702 KAR 3:320		11 KAR 19:010
	703 KAR 5:260	164.7894	11 KAR 4:080
161.020	16 KAR 2:120		11 KAR 20:001
	16 KAR 6:010		11 KAR 20:010
	702 KAR 3:320		11 KAR 20:020
161.027	16 KAR 9:080		11 KAR 20:030
161.028	16 KAR 2:120		11 KAR 20:040
	16 KAR 5:060		11 KAR 20:050
	16 KAR 6:010		11 KAR 20:060
	16 KAR 9:080		11 KAR 20:070
161.030	16 KAR 2:120	164A.330	13 KAR 2:045
	16 KAR 5:060	165.110	401 KAR 8:700
	16 KAR 6:010	165A.310	791 KAR 1:020
	16 KAR 9:080		791 KAR 1:070
161.048	16 KAR 9:080	165A.330	791 KAR 1:010
161.100	16 KAR 2:120		791 KAR 1:020
161.145	702 KAR 1:160		791 KAR 1:050
161.1211	16 KAR 2:120		791 KAR 1:060
161.1221	16 KAR 2:120		791 KAR 1:070
161.700	921 KAR 1:410		791 KAR 1:090
164.020	13 KAR 2:045	165A.350	791 KAR 1:010
164.030	13 KAR 2:045		791 KAR 1:025
164.0062	103 KAR 3:040		791 KAR 1:030
164.518	11 KAR 4:080		791 KAR 1:070
	11 KAR 16:001		791 KAR 1:090
	11 KAR 16:010	165A.360	791 KAR 1:010
164.740	11 KAR 8:030		791 KAR 1:025
	11 KAR 16:001		791 KAR 1:030
	11 KAR 19:010		791 KAR 1:090
164.740-164.785	11 KAR 5:001	165A.370	791 KAR 1:020
164.744	11 KAR 3:100		791 KAR 1:030
	11 KAR 4:080		791 KAR 1:060
	11 KAR 5:034		791 KAR 1:070
	11 KAR 5:145		791 KAR 1:090
	11 KAR 8:030	165A.380	791 KAR 1:025
164.748	11 KAR 3:100		791 KAR 1:070

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
165A.390	791 KAR 1:030		815 KAR 8:090
165A.450	791 KAR 1:035	198B.659	815 KAR 8:010
	791 KAR 1:030		815 KAR 8:020
	791 KAR 1:050	198B.660	815 KAR 8:010
165A.460	791 KAR 1:070		815 KAR 8:020
165A.465	791 KAR 1:050		815 KAR 8:060
	791 KAR 1:070		815 KAR 8:090
165A.470	791 KAR 1:050	198B.664	815 KAR 8:010
	791 KAR 1:070		815 KAR 8:020
165A.475	791 KAR 1:050		815 KAR 8:060
	791 KAR 1:070		815 KAR 8:090
165A.480	791 KAR 1:050	198B.668	815 KAR 8:010
	791 KAR 1:070	198B.672	815 KAR 8:010
165A.485	791 KAR 1:060		815 KAR 8:020
	791 KAR 1:070		815 KAR 8:060
165A.490	791 KAR 1:090	198B.676	815 KAR 8:010
165A.495	791 KAR 1:090		815 KAR 8:020
165A.510	791 KAR 1:060	198B.684	815 KAR 8:060
	791 KAR 1:090	198B.700	815 KAR 6:010
	791 KAR 1:030	198B.704	815 KAR 6:100
165A.990	791 KAR 1:090	198B.706	815 KAR 6:001
	300 KAR 6:010		815 KAR 6:010
171.396	300 KAR 6:010		815 KAR 6:030
171.3961	300 KAR 6:010		815 KAR 6:090
171.397	300 KAR 6:010		815 KAR 6:010
186.162	201 KAR 37:010	198B.712	815 KAR 6:010
186.168	201 KAR 37:010		815 KAR 6:040
186.281	601 KAR 1:112		815 KAR 6:080
186.570	921 KAR 1:410		815 KAR 6:090
189.290	601 KAR 1:112	198B.714	815 KAR 6:010
189A.050	922 KAR 3:030	198B.716	815 KAR 6:010
194A	921 KAR 2:015	198B.722	815 KAR 6:010
194A.010	601 KAR 1:112		815 KAR 6:040
	922 KAR 5:070		815 KAR 6:080
194A.025	907 KAR 15:005		815 KAR 6:090
194A.030	911 KAR 1:085	198B.724	815 KAR 6:010
194A.050	900 KAR 10:030		815 KAR 6:040
	902 KAR 4:041		815 KAR 6:080
194A.060	922 KAR 2:160	198B.728	815 KAR 6:030
194A.505	902 KAR 4:041		815 KAR 6:090
194A.700	910 KAR 1:180	198B.730	815 KAR 6:090
194A.060	907 KAR 1:044	198B.738	815 KAR 6:010
194A.990	902 KAR 4:041	198B.990	815 KAR 7:120
196	501 KAR 6:020		815 KAR 35:072
	501 KAR 6:050	198B.6671	815 KAR 8:090
	501 KAR 6:060	198B.6673	815 KAR 8:070
196.035	501 KAR 6:070	198B.6678	815 KAR 8:070
197	501 KAR 6:020	199.011	922 KAR 1:360
	501 KAR 6:050	199.640-199.680	922 KAR 1:360
	501 KAR 6:060	199.801	922 KAR 1:360
197.020	501 KAR 6:070	199.892	922 KAR 2:160
198.260	902 KAR 20:430	199.894	922 KAR 2:160
198B.010	815 KAR 7:120	199.896	922 KAR 2:160
198B.040	815 KAR 7:120	199.898	922 KAR 2:160
198B.050	815 KAR 7:120	199.8982	922 KAR 2:160
	815 KAR 20:195	199.899	922 KAR 2:160
198B.060	815 KAR 7:120	199.8994	922 KAR 2:160
198B.080	815 KAR 7:120	200.503	902 KAR 20:430
198B.110	815 KAR 7:120		902 KAR 20:440
198B.260	815 KAR 7:120		908 KAR 2:260
	902 KAR 20:091	200.505	908 KAR 2:230
	902 KAR 20:430	200.460-200.499	911 KAR 1:085
198B.650	815 KAR 8:010	202A.011	902 KAR 20:091
	815 KAR 8:020		921 KAR 2:015
198B.654	815 KAR 8:010	202A.051	922 KAR 5:070
	815 KAR 8:020	202B.010	902 KAR 20:091
	815 KAR 8:070	202B.100	922 KAR 5:070
198B.656	815 KAR 8:010	202.6313	902 KAR 20:091
	815 KAR 8:020	205.010	910 KAR 1:180
	815 KAR 8:090	205.201	910 KAR 1:140
198B.658	815 KAR 8:010		910 KAR 1:170
	815 KAR 8:020		910 KAR 1:180
	815 KAR 8:060		910 KAR 1:210

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
205.203	910 KAR 1:220 910 KAR 1:170 910 KAR 1:180 910 KAR 1:220	210.730 211.090 211.180	908 KAR 3:050 908 KAR 3:060 902 KAR 2:055 902 KAR 2:020
205.204	910 KAR 1:140		902 KAR 2:055
205.455	922 KAR 5:050	211.400	902 KAR 21:010
205.455-465	910 KAR 1:170 910 KAR 1:180 910 KAR 1:220	211.402 211.470-211.478	902 KAR 21:010 910 KAR 1:220 922 KAR 3:030
205.455-465.31	910 KAR 1:140		911 KAR 1:085
205.460-205.465	907 KAR 10:830	211.645	911 KAR 1:085
205.510	907 KAR 1:044	211.647	902 KAR 100:010
205.520	907 KAR 1:045 907 KAR 1:046 907 KAR 1:102 907 KAR 1:350 907 KAR 3:005 907 KAR 3:017 907 KAR 15:020 907 KAR 15:025 907 KAR 15:040 907 KAR 15:045 907 KAR 15:050 907 KAR 15:055 907 KAR 15:060 907 KAR 15:065 907 KAR 15:070 907 KAR 15:075 907 KAR 3:005 907 KAR 3:017	211.840 211.840-211.852	902 KAR 100:010 902 KAR 100:012 902 KAR 100:019 902 KAR 100:042 902 KAR 100:058 902 KAR 100:070 902 KAR 100:072 902 KAR 100:100 902 KAR 100:142 902 KAR 100:010 902 KAR 100:012 902 KAR 100:019 902 KAR 100:042 902 KAR 100:058 902 KAR 100:070 902 KAR 100:072 902 KAR 100:100 902 KAR 100:142
205.560	907 KAR 15:045 907 KAR 15:050 907 KAR 15:055 907 KAR 15:060 907 KAR 15:065 907 KAR 15:070 907 KAR 15:075	211.990	902 KAR 100:010 902 KAR 100:012 902 KAR 100:019 902 KAR 100:042 902 KAR 100:058 902 KAR 100:070 902 KAR 100:072 902 KAR 100:100 902 KAR 100:142
205.565	907 KAR 10:830	211.9101-9135	902 KAR 95:040
205.594	921 KAR 1:410	213.046	911 KAR 1:085
205.595	921 KAR 1:410	213.076	901 KAR 5:025
205.637	907 KAR 10:830	214.010	902 KAR 2:020
205.638	907 KAR 10:830	214.032-214.036	902 KAR 2:055
205.639	907 KAR 10:830	214.034	702 KAR 1:160
205.640	907 KAR 10:830	214.036	702 KAR 1:160
205.641	907 KAR 10:830		922 KAR 2:160
205.710-205.802	921 KAR 1:410	214.155	902 KAR 4:030
205.7685	921 KAR 1:410	214.610	201 KAR 9:310
205.8451	907 KAR 1:044	214.615	201 KAR 9:310
205.900	910 KAR 1:220 922 KAR 3:030	214.620 214.645	201 KAR 9:310 902 KAR 2:020
209	922 KAR 5:070 922 KAR 5:120	216.2920-216.2929 216.2925	900 KAR 7:030 902 KAR 20:008
209.020	921 KAR 2:015 922 KAR 5:050	216.2970 216.380	911 KAR 1:085 907 KAR 10:830
209.030	910 KAR 1:180 910 KAR 1:210	216.525 216.530	900 KAR 2:050 902 KAR 20:008 921 KAR 2:015
209.160	922 KAR 5:050	216.535	910 KAR 1:210
209A.010-080	922 KAR 5:050	216.540-216.543	910 KAR 1:210
210.005	902 KAR 20:430 902 KAR 20:440 908 KAR 2:260	216.555 216.557	900 KAR 2:050 900 KAR 2:050 921 KAR 2:015
210.010	908 KAR 2:220 908 KAR 2:230	216.560	900 KAR 2:050
210.040	908 KAR 2:220 908 KAR 2:230	216.750 216.765	921 KAR 2:015 921 KAR 2:015
210.366	201 KAR 28:200	216B	900 KAR 6:070
210.370	907 KAR 1:045 902 KAR 20:091	216B.010	900 KAR 6:075 902 KAR 20:008
210.370-485	908 KAR 2:220 908 KAR 2:230	216B.010-216B.130 216B.015	902 KAR 20:091 900 KAR 6:055 900 KAR 6:030
210.410	902 KAR 20:091 907 KAR 1:046		900 KAR 6:060 900 KAR 6:065
210.450	902 KAR 20:091		900 KAR 6:075
210.710	908 KAR 3:050 908 KAR 3:060		900 KAR 6:125
210.720	908 KAR 3:050 908 KAR 3:060	216B.030	902 KAR 20:008 902 KAR 20:091 902 KAR 20:091

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
216B.040	900 KAR 6:060		804 KAR 14:010
	900 KAR 6:065	241.075	804 KAR 7:011
	902 KAR 20:008	243.030	804 KAR 4:230
216B.042	902 KAR 20:008	243.042	804 KAR 4:230
216B.045-055	902 KAR 20:008	243.050	804 KAR 4:230
216B.062	900 KAR 6:065	243.075	804 KAR 10:030
216B.075	902 KAR 20:008		804 KAR 10:031
216B.085	900 KAR 6:065	243.082	804 KAR 4:230
216B.090	900 KAR 6:070	243.090	804 KAR 4:440
	900 KAR 6:075	243.380	804 KAR 4:440
216B.095	900 KAR 6:060		804 KAR 4.410
	900 KAR 6:065	243.390	804 KAR 4:440
	902 KAR 20:008		804 KAR 4.410
216B.105-131	902 KAR 20:008	246.295	302 KAR 20:066
216B.185	900 KAR 6:055	257.070	302 KAR 20:110
216B.330-216B.339	900 KAR 6:055		302 KAR 20:120
216B.445	900 KAR 6:075	257.550	302 KAR 20:066
	900 KAR 6:055	260.610	301 KAR 3:100
216B.990	900 KAR 6:070	278.010	807 KAR 5.001
	900 KAR 6:075		807 KAR 5:011
	902 KAR 20:008		807 KAR 5:068
	902 KAR 20:091		807 KAR 5:069
218A.205	201 KAR 9:310		807 KAR 5:075
	201 KAR 20:057		807 KAR 5:076
222.211	902 KAR 20:091	278.012	807 KAR 5:068
	908 KAR 2:230		807 KAR 5:075
224.10-110	401 KAR 8:200	278.015	807 KAR 5:068
	401 KAR 8:700		807 KAR 5:075
227.300	815 KAR 7:120	278.020	807 KAR 5.001
227.550	815 KAR 7:120		807 KAR 5:069
227A.010	815 KAR 35:072		807 KAR 5:120
227A.020	815 KAR 35:072	278.023	807 KAR 5:069
227A.150	815 KAR 35:072	278.030	807 KAR 5:011
230.210-360	810 KAR 1:017		807 KAR 5:075
	811 KAR 2:090		807 KAR 5:076
230.215	810 KAR 1:027	278.040	807 KAR 5:075
	810 KAR 1:028	278.100	807 KAR 5.001
	811 KAR 1:095	278.160	807 KAR 5:011
	811 KAR 2:070		807 KAR 5:076
	811 KAR 2:100	278.170	807 KAR 5:011
230.240	810 KAR 1:027	278.180	807 KAR 5.001
	811 KAR 2:070		807 KAR 5:011
230.260	810 KAR 1:028		807 KAR 5:076
	811 KAR 1:095	278.190	807 KAR 5:011
	811 KAR 2:100		807 KAR 5:069
230.265	810 KAR 1:028		807 KAR 5:076
	811 KAR 1:095	278.300	807 KAR 5.001
	811 KAR 2:100		807 KAR 5:069
230.290	810 KAR 1:027	278.310	807 KAR 5:076
	810 KAR 1:028	278.380	807 KAR 5:076
	811 KAR 1:095	278.410	807 KAR 5:001
	811 KAR 2:070	278.702	807 KAR 5:110
	811 KAR 2:100	278.704	807 KAR 5:110
230.300	810 KAR 1:028	278.706	807 KAR 5:110
	811 KAR 1:095	278.708	807 KAR 5:110
	811 KAR 2:100	278.710	807 KAR 5:110
230.310	810 KAR 1:027	278.712	807 KAR 5:110
	811 KAR 2:070	278.714	807 KAR 5:110
230.320	810 KAR 1:027	278.716	807 KAR 5:110
	810 KAR 1:028	281.010-281.320	601 KAR 11:030
	811 KAR 1:095	281.600	601 KAR 1:112
	811 KAR 2:100	281.620	601 KAR 1:112
230.361	810 KAR 1:028	281.650	601 KAR 1:112
	811 KAR 2:070	281.655	601 KAR 1:112
	811 KAR 2:100	281.730	601 KAR 1:112
235.010	301 KAR 1:015	281.912	601 KAR 1:112
235.990	301 KAR 1:015	281.990	601 KAR 1:112
237.110	301 KAR 2:172	281.6301	601 KAR 1:112
	921 KAR 1:410	304.06	806 KAR 6:070
241.060	804 KAR 4:351		806 KAR 37:010
	804 KAR 4:440	304.1-050	806 KAR 6:070
	804 KAR 4.410	304.2-290	806 KAR 6:070

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
304.15-410	806 KAR 6:070	315.210	201 KAR 2:030
304.24-390	806 KAR 37:010	318.010	815 KAR 20:030
304.24-410	806 KAR 37:010		815 KAR 20:070
304.3-240	806 KAR 6:070		815 KAR 20:090
304.3-270	103 KAR 15:180		815 KAR 20:130
304.33	806 KAR 37:010		815 KAR 20:195
304.37-020	806 KAR 37:010	318.015	815 KAR 20:070
304.37-030	806 KAR 37:010		815 KAR 20:090
304.37-110	806 KAR 37:010		815 KAR 20:130
304.37-120	806 KAR 37:010	318.020	815 KAR 20:030
304.37-130	806 KAR 37:010	318.030	815 KAR 20:050
304.39-020	601 KAR 1:112		815 KAR 20:060
304.39-320	601 KAR 1:112		815 KAR 20:090
309.080	902 KAR 20:091		815 KAR 20:130
	902 KAR 20:430	318.040	815 KAR 20:030
309.130	902 KAR 20:091	318.050	815 KAR 20:015
	902 KAR 20:430		815 KAR 20:030
	902 KAR 20:440	318.054	815 KAR 20:015
309.331	201 KAR 45:110		815 KAR 20:030
	201 KAR 45:120	318.134	815 KAR 20:015
	201 KAR 45:170		815 KAR 20:050
	201 KAR 45:180		815 KAR 20:195
309.334	201 KAR 45:170	318.150	815 KAR 20:060
309.335	201 KAR 45:120		815 KAR 20:070
	201 KAR 45:170		815 KAR 20:090
309.336	201 KAR 45:170		815 KAR 20:130
310.050	201 KAR 33:010	318.160	815 KAR 20:050
311.530-311.620	201 KAR 9:270		815 KAR 20:191
311.560	902 KAR 20:091	318.170	807 KAR 20:040
311.565	201 KAR 9:310	318.200	815 KAR 20:070
311.571	902 KAR 20:440		815 KAR 20:090
311.601	201 KAR 9:310		815 KAR 20:130
311.671	201 KAR 9:450	319.050	902 KAR 20:430
	201 KAR 9:460		902 KAR 20:440
311.673	201 KAR 9:450	319.056	902 KAR 20:091
	201 KAR 9:460		902 KAR 20:430
311.550	902 KAR 20:400		902 KAR 20:440
311.680	201 KAR 9:460	319.064	902 KAR 20:091
311.840-311.862	902 KAR 20:440		902 KAR 20:430
311.860	902 KAR 20:430	319A.010	201 KAR 28:130
311.990	201 KAR 9:270		201 KAR 28:170
312.019	201 KAR 21:090	319A.010-319A.210	201 KAR 28:010
312.085	201 KAR 21:090	319A.030	201 KAR 28:220
314.011	201 KAR 20:057	319A.070	201 KAR 28:200
	201 KAR 20:220	319A.080	201 KAR 28:020
	902 KAR 20:400		201 KAR 28:170
	922 KAR 2:160	319A.090	201 KAR 28:030
	902 KAR 20:091	319A.100	201 KAR 28:060
314.027	201 KAR 20:240		201 KAR 28:130
314.041	201 KAR 20:240		201 KAR 28:180
314.042	201 KAR 20:057	319A.110	201 KAR 28:020
	201 KAR 20:240		201 KAR 28:060
	902 KAR 20:091	319A.120	201 KAR 28:020
	902 KAR 20:430		201 KAR 28:070
	902 KAR 20:440	319A.130	201 KAR 28:020
314.051	201 KAR 20:240		201 KAR 28:060
314.071	201 KAR 20:240	319A.140	201 KAR 28:020
314.073	201 KAR 20:220	319A.160	201 KAR 28:090
	201 KAR 20:240		201 KAR 28:110
314.075	201 KAR 20:240		201 KAR 28:140
314.101	201 KAR 20:240		201 KAR 28:200
314.131	201 KAR 20:220	319A.170	201 KAR 28:110
314.142	201 KAR 20:240		201 KAR 28:170
314.161	201 KAR 20:240	319A.190	201 KAR 28:140
314.171	201 KAR 20:240	319B.010	201 KAR 44:090
314.193	201 KAR 20:057	319B.030	201 KAR 44:010
314.396	201 KAR 20:057		201 KAR 44:090
315.010	201 KAR 2:040		201 KAR 44:120
315.020	201 KAR 2:040	319B.130	201 KAR 44.110
315.050	201 KAR 2:040	319C.010	902 KAR 20:091
315.191	201 KAR 2:040		902 KAR 20:430
315.191	201 KAR 2:030		902 KAR 20:440

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
320.210	902 KAR 20:091	350.093	405 KAR 10:025
320.390	201 KAR 5:055	350.095	405 KAR 10:025
322.340	807 KAR 5.001	350.100	405 KAR 10:025
322A.030	201 KAR 31:100	350.110	405 KAR 10:025
323A.040	201 KAR 10:050	350.151	405 KAR 8:040
323A.050	201 KAR 10:050		405 KAR 10:025
323A.060	201 KAR 10:050	350.465	405 KAR 8:030
323A.100	201 KAR 10:050		405 KAR 10:025
323A.105	201 KAR 10:050	350.500-521	405 KAR 10:025
324A.010	201 KAR 30:030	365.015	807 KAR 5.001
324A.030	201 KAR 30:030	367.110-367.360	791 KAR 1:010
324A.035	201 KAR 30:030	369.102	807 KAR 5.001
	201 KAR 30:040	387.540	922 KAR 5:070
	201 KAR 30:080	403.211-403.215	921 KAR 1:410
	201 KAR 30:125	405.060	921 KAR 1:410
	201 KAR 30:190	405.405-405.991	921 KAR 1:410
	201 KAR 30:200	407.5101-407.5902	921 KAR 1:410
324A.040	201 KAR 30:030	415.208	907 KAR 1:044
	201 KAR 30:190	416.120	921 KAR 2:015
324A.045	201 KAR 30:125	416.212	921 KAR 2:015
324A.050	201 KAR 30:040	416.2030	921 KAR 2:015
324A.052	201 KAR 30:030	416.2095	921 KAR 2:015
324A.065	201 KAR 30:200	416.2096	921 KAR 2:015
324A.075	201 KAR 30:200	416.2099	921 KAR 2:015
325.230	201 KAR 15:015	422.317	907 KAR 1:044
325.240	201 KAR 15:015	424.300	807 KAR 5.001
325.261	201 KAR 1:190	427.120	921 KAR 1:410
325.270	201 KAR 1:190	427.125	921 KAR 1:410
332.095	791 KAR 1:070	431.52	907 KAR 1:044
333.130	902 KAR 2:020	434.444	201 KAR 37:010
334A	911 KAR 1:085	434.840-860	907 KAR 1:044
334A.030	16 KAR 2:120	439	501 KAR 6:020
334A.033	16 KAR 2:120		501 KAR 6:050
334A.035	16 KAR 2:120		501 KAR 6:060
334A.050	16 KAR 2:120	439.310 - 439.440	501 KAR 1:080
334A.060	16 KAR 2:120	439.3401	902 KAR 20:091
335.080	902 KAR 20:091		902 KAR 20:430
	902 KAR 20:430	439.470	501 KAR 6:070
	902 KAR 20:440	439.590	501 KAR 6:070
	902 KAR 95.080	439.640	501 KAR 6:070
335.100	902 KAR 20:091	514	921 KAR 2:015
	902 KAR 20:430	532.040 - 532.060	501 KAR 1:080
	902 KAR 20:440	532.060	601 KAR 1:112
	902 KAR 95.080	535.400	501 KAR 1:080
335.300	902 KAR 20:091	600.020	922 KAR 1:360
	902 KAR 20:430		922 KAR 2:160
	902 KAR 20:440	605.090	922 KAR 1:360
	902 KAR 95.080	605.120	922 KAR 2:160
335.320	201 KAR 32:035	610.110	922 KAR 1:360
335.332	201 KAR 32:035	620.020	201 KAR 9:310
335.500	201 KAR 36:060		922 KAR 2:160
	902 KAR 20:091	645.020	902 KAR 20:091
	902 KAR 20:430	7 C.F.R.	405 KAR 8:030
	902 KAR 20:440		405 KAR 8:040
	902 KAR 95.080		902 KAR 4:041
335.505	201 KAR 36:060		921 KAR 3:030
335.515	201 KAR 36:080		921 KAR 3:035
335.525	201 KAR 36:060		921 KAR 3:045
	201 KAR 36:070		921 KAR 3:060
335.527	201 KAR 36:070		921 KAR 3:090
337.275	922 KAR 2:160		922 KAR 2:160
337.295	803 KAR 1:035	9 C.F.R.	302 KAR 20:110
337.310	803 KAR 1:035		302 KAR 20:120
343	803 KAR 1:010	10 C.F.R.	902 KAR 100:010
344.030	101 KAR 2:102		902 KAR 100:019
	101 KAR 3:015		902 KAR 100:042
350.020	405 KAR 10:025		902 KAR 100:058
350.060	405 KAR 8:030		902 KAR 100:070
	405 KAR 8:040		902 KAR 100:072
	405 KAR 10:025		902 KAR 100:100
350.062	405 KAR 10:025		902 KAR 100:142
350.064	405 KAR 10:025	12 C.F.R.	201 KAR 30:040

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
20 C.F.R.	921 KAR 2:015		101 KAR 3:015
	922 KAR 2:160		922 KAR 2:160
21 C.F.R.	401 KAR 8:700	30 U.S.C.	405 KAR 8:030
	902 KAR 100:100		405 KAR 8:040
27 C.F.R.	804 KAR 14:010	38 U.S.C.	922 KAR 2:160
29 C.F.R.	702 KAR 1:160	42 U.S.C.	31 KAR 4:130
	902 KAR 20:400		31 KAR 4:140
30 C.F.R.	405 KAR 8:030		31 KAR 5:010
	405 KAR 8:040		401 KAR 8:300
31 C.F.R.	921 KAR 1:410		900 KAR 10:030
34 C.F.R.	11 KAR 3:100		902 KAR 20:430
	11 KAR 4:080		902 KAR 20:440
36 C.F.R.	300 KAR 6:010		902 KAR 100:010
39 C.F.R.	902 KAR 100:070		907 KAR 1:516E
40 C.F.R.	405 KAR 8:030		907 KAR 3:005
	405 KAR 8:040		907 KAR 3:111
	401 KAR 8:200		907 KAR 10:826
	401 KAR 8:300		907 KAR 10:830
	902 KAR 100:019		907 KAR 15:020
42 C.F.R.	907 KAR 1:044		907 KAR 15:025
	902 KAR 20:430		907 KAR 15:040
	902 KAR 20:440		907 KAR 15:045
	902 KAR 95.080		907 KAR 15:050
	907 KAR 1:350		907 KAR 15:055
	907 KAR 3:005		907 KAR 15:060
	907 KAR 10:830		907 KAR 15:065
	921 KAR 1:410		907 KAR 15:070
45 C.F.R.	807 KAR 5:001		907 KAR 15:075
	900 KAR 10:030		910 KAR 1:140
	902 KAR 2:055		910 KAR 1:170
	902 KAR 20:091		910 KAR 1:180
	902 KAR 20:400		910 KAR 1:210
	902 KAR 20:430		910 KAR 1:220
	902 KAR 20:440		921 KAR 2:015
	902 KAR 95.080		921 KAR 3:030
	902 KAR 100:072		921 KAR 3:035
	907 KAR 3:005		922 KAR 1:360
	910 KAR 1:220		922 KAR 2:160
	922 KAR 2:160		922 KAR 5:070
	922 KAR 5:050	2014 Ky. Acts ch. 117	922 KAR 1:360
45 C.F.R.	910 KAR 1:140		922 KAR 2:160
	921 KAR 1:410	Pres. EO 13166	921 KAR 3:030
	47 C.F.R.807 KAR 5.001	Ky. Const. Sec. 170	103 KAR 3:030
49 C.F.R.	791 KAR 1:060		
	902 KAR 100:019		
	902 KAR 100:070		
5 U.S.C.	910 KAR 1:220		
7 U.S.C.	921 KAR 3:030		
	921 KAR 3:035		
	921 KAR 3:060		
8 U.S.C.	921 KAR 2:015		
12 U.S.C.	201 KAR 30:040		
	201 KAR 30:125		
	201 KAR 30:190		
	201 KAR 30:200		
15 U.S.C.	902 KAR 100:042		
	921 KAR 1:410		
16 U.S.C.	300 KAR 6:010		
	405 KAR 8:030		
	405 KAR 8:040		
20 U.S.C.	11 KAR 3:100		
	11 KAR 4:080		
	11 KAR 15:010		
	16 KAR 5:060		
	703 KAR 5:225		
	807 KAR 5:001		
21 U.S.C.	902 KAR 4:041		
25 U.S.C.	922 KAR 2:160		
26 U.S.C.	103 KAR 15:180		
	105 KAR 1:410		
	804 KAR 14:010		
29 U.S.C.	101 KAR 2:102		

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the 2014 *Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the *Administrative Register of Kentucky*. NOTE: Finalized copies of the technically amended administrative regulations are available for viewing on the Legislative Research Commission Web site at <http://www.lrc.ky.gov/home.htm>.

‡ - Pursuant to KRS 13A.320(e), this indicates a technical change was made to this administrative regulation during the promulgation process.

13 KAR 2:045		11-20-14
201 KAR 30:040		10-3-14
201 KAR 38:010		7-17-14
201 KAR 38:020		7-17-14
201 KAR 38:030		7-17-14
201 KAR 38:040		7-17-14
201 KAR 38:060		7-17-14
201 KAR 38:070		7-17-14
405 KAR 8:030	‡	12-11-14
405 KAR 8:040	‡	12-11-14
600 KAR 6:040		1-5-15
803 KAR 2:060		7-17-14
804 KAR 3:100		7-15-14
804 KAR 4:110		7-15-14
804 KAR 4:150		7-15-14
804 KAR 4:340		7-15-14
804 KAR 4:370		7-15-14
804 KAR 4:385		7-15-14
804 KAR 8:060		7-15-14
804 KAR 9:020		7-15-14
804 KAR 9:030		7-15-14
804 KAR 10:010		7-15-14
804 KAR 10:020		7-15-14
804 KAR 11:030		7-15-14
804 KAR 13:010		7-15-14
805 KAR 4:020		6-26-14
805 KAR 4:050		6-26-14
805 KAR 4:060		6-26-14
907 KAR 1:585		9-26-14
907 KAR 12:010		9-10-14
		11-4-14
910 KAR 1:180	‡	9-4-14
921 KAR 3:042	‡	7-1-14

SUBJECT INDEX

ACCOUNTANCY, STATE BOARD OF

Examination sections, applications, and procedures; 201 KAR 1:190

AGRICULTURE, DEPARTMENT OF

Egg Marketing

Egg lot consolidation; 302 KAR 10:110

Livestock Sanitation

Treatment of imported mares; 302 KAR 20:110

Treatment of imported stallions; 302 KAR 20:120

ALCOHOLIC BEVERAGE CONTROL, DEPARTMENT OF

Licensing

Application, basic and renewal form; 804 KAR 4:400

Application, special and registration form; 804 KAR 4:410

Malt beverage and wine for personal use; 804 KAR 14:010

Repeal of 804 KAR 4:070, 4:350, and 4:420; 804 KAR 4:351

Supplemental licenses, extended hours; 804 KAR 4:230

Local Administrators

Local government regulatory license fees; 804 KAR 10:031

Repeal of 804 KAR 7:010; 804 KAR 7:011

BARBERING, BOARD OF

Sanitation requirements; 201 KAR 14:085

COMMUNITY BASED SERVICES, DEPARTMENT FOR

Adult Services

Caregiver misconduct registry and appeals; 922 KAR 5:120

Domestic violence shelters; funding requirements; 922 KAR 5:050

Protective services; 922 KAR 5:070

Child Welfare

Appeal of child abuse and neglect investigative finding; 922 KAR 1:480

Private child care placement, levels of care, and payment; 922 KAR 1:360

Service appeals; 922 KAR 1:320

Day Care

Child Care Assistance Program; 922 KAR 2:160

Family Support

Child support collection and enforcement; 921 KAR 1:410

Issuance procedures; 3:045

K-TAP, Kentucky Works, Welfare to Work, State Supplementation

Hearings and appeals; 921 KAR 2:055

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

Supplemental Nutrition Assistance Program

Administrative disqualification hearings; penalties; 921 KAR 3:060

Application process; 921 KAR 3:030

Certification process; 921 KAR 3:035

Hearings, fair; 921 KAR 3:070

Simplified Assistance for the Elderly Program or "SAFE"; 921 KAR 3:090

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Kentucky Fire Commission

Candidate Physical Ability Test; 739 KAR 2:090

Fire service instructors; certification and qualifications; 739 KAR 2:060

CORRECTIONS, DEPARTMENT OF

Office of the Secretary

Kentucky Correctional Institution for Women; 501 KAR 6:070

Luther Luckett Correctional Complex; 501 KAR 6:050

Northpoint Training Center; 501 KAR 6:060

Policies and procedures; 501 KAR 6:020

COUNSELORS, BOARD OF LICENSED PROFESSIONAL

Education and examination requirements; 201 KAR 36:070

Experience under supervision; qualification; 201 KAR 36:060

Inactive and retired licensure; 201 KAR 36:080

CRIMINAL JUSTICE TRAINING; OFFICE OF

General Training Provision

Certified Court Security Officers Academy trainee requirements; 503 KAR 3:110

Definitions; 503 KAR 3:005

Recruit conduct requirements; 503 KAR 3:010

Telecommunications Academy trainee requirements; 503 KAR 3:040

Kentucky Law Enforcement Council (*See Kentucky Law Enforcement Council*) 503 KAR Chapter 1

DENTISTRY, BOARD OF

Anesthesia and sedation; 201 KAR 8:550

DIABETES EDUCATORS, BOARD OF LICENSED

Application procedures; 201 KAR 45:170

Education courses; 201 KAR 45:180

Renewal, reinstatement, and inactive status; 201 KAR 45:120

Supervision and work experience; 201 KAR 45:110

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Commission on Proprietary Education (*See Proprietary Education, Commission on*) KAR Title 791

Education; Kentucky Board of

Assessment and Accountability

Accountability administrative procedures and guidelines; 703 KAR 5:240

Intervention options in priority schools and districts; 703 KAR 5:260

Next-Generation Learners; 703 KAR 5:200

Repeal of 703 KAR 5:120 and 5:180; 703 KAR 5:122

School and district accountability, recognition, support, and consequences; 703 KAR 5:225

General Administration

School health services; 702 KAR 1:160

Instructional Programs

Energy Technology Engineering Career Pathway; 705 KAR 4:250

Office of Instruction

Professional growth and effectiveness system; 704 KAR 3:370

School Administration and Finance

Finance officer certification requirements; 702 KAR 3:320

School Terms, Attendance and Operation

Calendar; 702 KAR 7:140

Designation of agent to manage middle and high school interscholastic athletics; 702 KAR 7:065

EDUCATION PROFESSIONAL STANDARDS BOARD

Assessment

Examination prerequisites for teacher certification; 16 KAR 6:010

Educator Preparation

Literacy Program Requirements Certification Programs; 16 KAR 5:060

Teaching Certificates

Emergency certification and out-of-field teaching; 16 KAR 2:120

Kentucky teaching certificates; 16 KAR 2:010

University-based Alternative Certification Program

Program; 16 KAR 9:080

ELECTIONS, STATE BOARD OF

Forms and Procedures

Absentee ballots via facsimile or electronically; 31 KAR 4:130

Federal postcard application via email; 31 KAR 4:140

Statewide Voter Registration

Overseas voter without a recognized residential address; 31 KAR 3:030

Voting

Federal write-in absentee ballot; 31 KAR 5:010

EMBALMERS AND FUNERAL DIRECTORS, BOARD

Board members; per diem compensation; 201 KAR 15:015

SUBJECT INDEX

ENERGY ENVIRONMENT CABINET

Public Service Commission (*See Public Service Commission*) KAR
Title 807

FINANCE AND ADMINISTRATION CABINET

Commonwealth Office of Technology
Data breach notification forms; 200 KAR 1:015
Fleet Management
Motor pool procedure; 200 KAR 40:010
Purchase, use, lease, maintenance, and disposal of state-
owned motor vehicles; 200 KAR 40:020
Kentucky Private Activity Bond Allocation Committee
Formula for allocation of private activity bonds; 200 KAR
15:010
Revenue; Department of (*See Revenue, Department of*)
School Facilities Construction Commission
Emergency and targeted Investment Fund; 750 KAR 1:030

FISH AND WILDLIFE RESOURCES, DEPARTMENT OF

Fish
Asian Carp and Scaled Rough Fish Harvest Program; 301 KAR
1:152
Boat and motor restrictions; 301 KAR 1:015
Nontraditional fishing methods; 301 KAR 1:410
Reciprocal agreements; 301 KAR 1:220
Game
Black bears; 301 KAR 2:300
Deer control tags, deer destruction permits, and landowner
designees; 301 KAR 2:176
Deer hunting on Wildlife Management Areas, state parks, other
public lands, and federally controlled areas; 301 KAR 2:178
Deer hunting seasons, zones, and requirements; 301 KAR
2:172
Dove, wood duck, teal, other migratory game bird hunting; 301
KAR 2:225
Elk quota hunts, elk depredation permits, landowner cooperator
permits, and voucher cooperator permits; 301 KAR 2:132
Furbearers; season, limits; 301 KAR 2:251
Small game and furbearer hunting and trapping on public
areas; 301 KAR 2:049
Waterfowl hunting requirements; public lands; 301 KAR 2:222
Waterfowl seasons and limits; 301 KAR 2:221
Wild turkey hunting; requirements; 301 KAR 2:140
Wild turkey hunting; fall; 301 KAR 2:144
Hunting and Fishing
Special commission permits; 301 KAR 3:100

GENERAL GOVERNMENT CABINET

Accountancy (*See Accountancy, State Board of*) 201 KAR Chapter 1
Barbering (*See Barbering, Board of*) 201 KAR Chapter 14
Chiropractic Examiners
Prechiropractic education requirements; 201 KAR 21:090
Dentistry (*See Dentistry, Board of*) 201 KAR Chapter 8
Diabetes Educators (*See Diabetes Educators; Board of Licensed*)
201 KAR Chapter 45
Dietitians and Nutritionists, Board of Licensure and Certification for
Fees; 201 KAR 33:010
Marriage and Family Therapists, Board of Licensure for
Supervision of therapist associates; 201 KAR 32:035
Nursing (*See Nursing, Board of*) 201 KAR Chapter 20
Occupational Therapy, Board of Licensure for (*See Occupational
Therapy, Board of*) 201 KAR Chapter 28
Optometric Examiners, Board of
Telehealth; 201 KAR 5:055
Physical Therapy (*See Physical Therapy, Board of*) 201 KAR
Chapter 22
Professional Art Therapists, Board of Licensure (*See Professional
Art Therapists, Board of Licensure*) 201 KAR Chapter 34
Professional Engineers and Land Surveyors (*See Professional
Engineers and Land Surveyors Board of Licensure for*) 201 KAR
Chapter 18
Professional Geologists (*See Professional Geologists, Board of
Registration for*) 201 KAR Chapter 31
Real Estate Appraisers (*See Real Estate Appraisers Board*) 201

KAR Chapter 30
Social Work (*See Social Work, Board of*) 201 KAR Chapter 23
Veteran's Affairs, Department of
Kentucky Veterans' Program Trust fund; 201 KAR 37:010

HEALTH AND FAMILY SERVICES, CABINET FOR

Aging and Independent Living, Department of
Aging Services
Appeal procedures; 910 KAR 1:140
General administration, programs for older individuals and
persons with disabilities; 910 KAR 1:220
Homecare program for the elderly; 910 KAR 1:180
Kentucky Long-term Care Ombudsman Program; 910 KAR
1:210
Older Americans Act supportive services for the elderly; 910
KAR 1:170
Brain Injury
Trust fund operations; 910 KAR 3:030
Guardianship
Adult guardianship, service provisions for; 910 KAR 2:040
Behavioral Health, Developmental and Intellectual Disabilities
Institutional Care
"Means test" for determining patient liability; 908 KAR 3:060
Per diem rates; 908 KAR 3:050
Mental Health
Adult peer support specialist; 908 KAR 2:220
Kentucky family peer support specialist; 908 KAR 2:230
Targeted case manager: eligibility and training; 908 KAR
2:260
Community Based Services (*See Community Based Services;
Department for*) KAR Title 921
Certificate of Need
Annual surveys; 900 KAR 6:125
Application
Process; 900 KAR 6:065
Timetable for submission; 900 KAR 6:060
Expenditure minimums; 900 KAR 6:030
Health Benefit Exchange
Eligibility and enrollment in a qualified health plan; 900 KAR
10:030
Health Policy, Office of
Data reporting by health care providers; 900 KAR 7:030
Inspector General, Office of
Transfer and discharge rights; 900 KAR 2:050
Medicaid Services (*See Medicaid Services, Department for*) KAR
Title 907
Public Health (*See Public Health, Department for*) KAR Title 902
Special Healthcare Needs Services; Children with
Early Hearing Detection and Intervention Program; 911 KAR
1:085
Vital Statistics
Kentucky Electronic Death Registration System; 901 KAR
5:025

HEATING, VENTILATION & AIR CONDITIONING, DIVISION OF

Continuing education courses and providers; approval
requirements; 815 KAR 8:060
Fees and refunds; 815 KAR 8:090
Installation permits; 815 KAR 8:070
Journeyman HVAC mechanic licensing requirements; 815 KAR
8:020
Master HVAC contractor licensing requirements; 815 KAR 8:010

HIGHER EDUCATION ASSISTANCE AUTHORITY

Authority
Student aid applications; 11 KAR 4:080
Coal County College Completion Program
Application and certification; 11 KAR 20:020
Award determination procedure; 11 KAR 20:030
Definitions; 11 KAR 20:001
Disbursement; 11 KAR 20:040
Dual enrollment under consortium agreement; 11 KAR 20:070
Records and reports; 11 KAR 20:060
Refunds and repayment; 11 KAR 20:050

SUBJECT INDEX

Student eligibility requirement; 11 KAR 20:010
Coal County Scholarship Program for Pharmacy Students
Scholarship; 11 KAR 19:010
Commonwealth Merit Scholarship Program
Definitions for 11 KAR Chapter 15; 11 KAR 15:010
KEES overpayment and refund procedure; 11 KAR 15:060
KEES program; 11 KAR 15:090
Early Childhood Development Scholarship Program
Applicant selection process; 11 KAR 16:010
Definitions; 11 KAR 16:001
Grant Program
CAP grant award determination procedure; 11 KAR 5:145
CAP grant student eligibility; 11 KAR 5:034
Definitions; 11 KAR 5:001
KTG student eligibility requirements; 11 KAR 5:033
Refund, repayment policy; 11 KAR 5:170
Kentucky Loan Program
Administrative wage garnishment; 11 KAR 3:100
Teacher Scholarship Loan Program
Teacher scholarships; 11 KAR 8:030

HOME INSPECTORS, BOARD OF

Conduct standards; 815 KAR 6:030
Compensation; 815 KAR 6:100
Complaints and administrative hearings; 815 KAR 6:090
Continuing education provider; 815 KAR 6:080
Definitions; 815 KAR 6:001
Licensing requirements and records maintenance; 815 KAR 6:010
Prelicensing providers; 815 KAR 6:040

HORSE RACING COMMISSION

Harness Racing
Disciplinary measures and penalties; 811 KAR 1:095
Quarter Horse, Appaloosa and Arabian Racing
Disciplinary measures and penalties; 811 KAR 2:100
Entries, subscriptions, and declarations; 811 KAR 2:027
Objections and complaints; 811 KAR 2:090
Thoroughbred Racing
Disciplinary measures and penalties; 810 KAR 1:028
Entries, subscriptions, and declarations; 810 KAR 1:027
Objections and complaints; 810 KAR 1:017

HOUSING, BUILDINGS AND CONSTRUCTION; DEPARTMENT OF

Building Code
Kentucky Building Code; 815 KAR 7:120
Electrical
Certification of low-voltage installers; 815 KAR 35:072
Heating, Ventilation and Air Conditioning (*See Heating, Ventilation and Air Conditioning, Division of*) 815 KAR Chapter 8
Plumbing (*See Plumbing, Division of*) 815 KAR Chapter 20

INSURANCE, DEPARTMENT OF

Assets and Liabilities
Valuation of life insurance; annuity reserves; 806 KAR 6:070
Fraud
Designation of contact person; 806 KAR 47:010
Insurance Holding Company Systems
Systems; 806 KAR 37:010
Premium Finance Companies
Minimum service charge abuse; 806 KAR 30:020

JUSTICE AND PUBLIC SAFETY CABINET

Corrections (*See Corrections, Department of*) KAR Title 501
Criminal Justice Training (*See Criminal Justice Training; Office of*)
KAR Title 503
Kentucky Law Enforcement Council (*See Kentucky Law Enforcement Council*) 503 KAR Chapter 1
Office of the Secretary
Repeal of 500 KAR Chapter 4; 500 KAR 4:011
Parole Board
Parole Board policies and procedure; 501 KAR 1:080

LABOR CABINET

Apprenticeship programs; 803 KAR 1:010
Hearing procedure; 803 KAR 1:035

LANDSCAPE ARCHITECTS, BOARD OF

Fees; 201 KAR 10:050

LAW ENFORCEMENT COUNCIL

Basic training, graduation requirements; 503 KAR 3:120
Course curriculum approval; 503 KAR 1:090
Definitions; 503 KAR 1:060
Instructor certification; 503 KAR 1:100
Professional development in-service training, graduation requirements, recognized courses, and records; 503 KAR 1:120
Repeal of 503 KAR 1:110; 503 KAR 1:111
Schools, certification; 503 KAR 1:080
Training, qualifications; application; 503 KAR 1:070

MEDICAID SERVICES, DEPARTMENT FOR

Behavioral Health
Behavioral health service organizations, coverage; 907 KAR 15:020
Behavioral health service organizations; reimbursement; 907 KAR 15:025
Definitions; 907 KAR 15:005
Mental health or substance use disorder, co-occurring; coverage; 907 KAR 15:050
Mental health or substance use disorder, co-occurring; reimbursement; 907 KAR 15:055
Reimbursement provisions and requirements for targeted case management services for individuals with a substance use disorder; 907 KAR 15:045
Reimbursement provisions and requirements regarding targeted case management for individuals with co-occurring mental health or substance use disorders and chronic or complex physical health issues; 907 KAR 15:055
Reimbursement provisions and requirements regarding targeted case management for individuals with a severe mental illness and children with a severe emotional disability; 907 KAR 15:065
Residential crisis stabilization units, coverage; 907 KAR 15:070
Residential crisis stabilization units, reimbursement; 907 KAR 15:075
Severe mental illness or emotional disability; coverage; 907 KAR 15:060
Severe mental illness or emotional disability; reimbursement; 907 KAR 15:065
Substance use disorder, coverage; 907 KAR 15:040
Substance use disorder, reimbursement; 907 KAR 15:045
Commissioner's Office
Repeal of 907 KAR 10:825; 907 KAR 10:826
Payments and Services
Coverage of physicians' services; 907 KAR 3:005
Repeal of 907 KAR 3:110; 907 KAR 3:111
Enhanced reimbursement for preventive and wellness services; 907 KAR 3:017
Policy and Operations
Acute care inpatient hospital reimbursement; 907 KAR 10:830
Coverage and payments for organ transplants; 907 KAR 1:350
Services
Advanced practice registered nurse services; 907 KAR 1:102
Community mental health center primary care services; 907 KAR 1:046
Coverage provisions and requirements regarding community mental health center behavioral health services; 907 KAR 1:044
Reimbursement provisions and requirements regarding community mental health center services; 907 KAR 1:045
Repeal of 907 KAR 1:515, 520, 525, 530, 550, 555; 907 KAR 1:516E
Veterans' Affairs Nursing Facilities
Definitions; 907 KAR 18:001
Reimbursement for Veterans Affairs nursing facility services;

SUBJECT INDEX

907 KAR 18:005

MEDICAL LICENSURE; BOARD OF

Acupuncturists fee schedule; 201 KAR 9:450
Athletic trainers, continued licensure; 201 KAR 9:305
Athletic trainers, fee schedule; 201 KAR 9:307
Continuing medical education; 201 KAR 9:310
Professional standards for prescribing or dispensing
Buprenorphine-Mono-Product or Buprenorphine-Combined-
with-Naloxone; 201 KAR 9:270
Written plan; 201 KAR 9:460

NATURAL RESOURCES, DEPARTMENT OF

Permits
Surface coal mining permits; 405 KAR 8:030
Underground coal mining permits; 405 KAR 8:040
Reclamation Guaranty Fund, Office
Performance bond subsidy, extension; 405 KAR 10:025

NURSING, BOARD OF

Advanced practice registered nurse licensure and certification
requirements; 201 KAR 20:056
Alternative program; 201 KAR 20:450
Applications for licensure; 201 KAR 20:370
Continuing education provider approval; 201 KAR 20:220
Evaluation of prelicensure registered nurse and practical nurse
programs; 201 KAR 20:360
Fees for applications and services; 201 KAR 20:240
Investigation and disposition of complaints; 201 KAR 20:161
Scope and standards of practice of APRNs; 201 KAR 20:057
Sexual Assault Nurse Examiner Program standards and credential
requirements; 201 KAR 20:411

OCCUPATIONAL THERAPY, BOARD OF LICENSURE FOR

Board members, per diem; 201 KAR 28:220
Competence, continuing; 201 KAR 28:200
Deep physical agent modalities; 201 KAR 28:170
Definitions; 201 KAR 28:010
Ethics; 201 KAR 28:140
Examination; 201 KAR 28:070
Fees; 201 KAR 28:110
General provisions; 201 KAR 28:020
Licensure requirements; 201 KAR 28:060
Permits, temporary; 201 KAR 28:180
Renewals; 201 KAR 28:090
Short-term practice under KRS 319A.090(1)(e); 201 KAR 28:030
Supervision of assistants, aides, students, temporary permit
holders; 201 KAR 28:130

PERSONNEL CABINET

Board
Leave requirements for unclassified service; 101 KAR 3:015
Probationary periods; 101 KAR 1:325
Classified
2015 Plan Year Handbook for public Health Insurance
Program; 101 KAR 2:210
Annual leave sharing procedures; 101 KAR 2:106
Classified leave general requirements; 101 KAR 2:102
Employee performance evaluation system; 101 KAR 2:180
Kentucky Employee Assistance Program (KEAP); 101 KAR
2:160
Sick leave sharing procedures; 101 KAR 2:105

PHARMACY, BOARD OF

Interns; registration; 201 KAR 2:040
License transfer; 201 KAR 2:030

PHYSICAL THERAPY, BOARD OF

Renewal, reinstatement of physical therapist or physical therapist
assistant; 201 KAR 22:040
Telehealth and telephysical therapy; 201 KAR 22:160

PLUMBING, DIVISION OF

Fees and refunds; 815 KAR 20:015

Fixtures; 815 KAR 20:070
House sewers, storm water piping; installation; 815 KAR 20:130
Installation permits; 815 KAR 20:050
Licensing and examination requirements; 815 KAR 20:030
Materials; quality and weight of; 815 KAR 20:060
Medical gas piping installations; 815 KAR 20:195
Minimum fixture requirements; 815 KAR 20:191
Soil, waste, and vent systems; 815 KAR 20:090
Vehicle identification; 815 KAR 20:040

PROFESSIONAL ENGINEERS AND LAND SURVEYORS, BOARD OF LICENSURE FOR

Continuing professional development for professional land
surveyors; 201 KAR 18:192

PROFESSIONAL GEOLOGISTS; BOARD OF REGISTRATION FOR

Administrative subpoena; 201 KAR 31:100

PROPRIETARY EDUCATION, COMMISSION ON

Applications, permits and renewals; 791 KAR 1:010
Commercial driver license training school instructor application;
791 KAR 1:070
Commercial driver license training school license application; 791
KAR 1:050
Commercial driver license training school license application
renewal; 791 KAR 1:060
Fees; 791 KAR 1:025
Hearing procedures; 791 KAR 1:030
Licensure standards; 791 KAR 1:020
Repeal of 791 KAR 1:090; 791 KAR 1:091
Student protection fund; 791 KAR 1:035

PROSTHETICS, ORTHOTICS, AND PEDORTHICS, BOARD

Fees; 201 KAR 44:010
Licensure requirements; 201 KAR 44:090
Licensure by endorsement; 201 KAR 44:110
Post residency registration; 201 KAR 44:120

PUBLIC HEALTH, DEPARTMENT FOR

Communicable Diseases
Immunization data reporting and exchange; 902 KAR 2:055
Reportable Disease Surveillance; 902 KAR 2:020
Health Services and Facilities
Behavioral health services organizations; specifications; 902
KAR 20:430
Facilities; behavioral health service organizations; 902 KAR
20:430
Facilities; residential crisis stabilization units; 902 KAR 20:440
Facilities specifications, operation and services; community
mental health center; 902 KAR 20:091
License procedures and fee schedules; 902 KAR 20:008
Limited services clinics; 902 KAR 20:400
Residential crisis stabilization units; facility specifications; 902
KAR 20:440
Maternal and Child Health
Newborn screening program; 902 KAR 4:030
Repeal of 902 KAR 4:040. Special supplemental nutrition
program for women, infants and children (WIC) 902 KAR
4:041
Programs for the Underserved
Physicians Care Program, eligibility; 902 KAR 21:010
Radiology
Decommissioning and financial surety; 902 KAR 100:042
Definitions; 902 KAR 100:010
Fee schedule; 902 KAR 100:012
Industrial radiography; 902 KAR 100:100
Licenses to manufacture, assemble, repair, distribute products;
902 KAR 100:058
Protection standards; 902 KAR 100:019
Radionuclides in the health arts; 902 KAR 100:072
Transportation of radioactive material; 902 KAR 100:070
Wire line services operations; 902 KAR 100:142
Radon
Radon Contractor Certification Program; 902 KAR 95:040

SUBJECT INDEX

PUBLIC PROTECTION CABINET

Home Inspectors (*See Home Inspectors, Board of*) 815 KAR Chapter 6
Housing, Buildings and Construction (*See Housing, Buildings and Construction; Department of*) KAR Title 815
Plumbing (*See Plumbing, Division of*) 815 KAR Chapter 20
Insurance (*See Insurance, Department of*) KAR Title 806

PUBLIC SERVICE COMMISSION

Utilities
Alternative rate adjustment procedure for small utilities; 807 KAR 5:076
Applications for certificate of public convenience and necessity for certain electric transmission lines; 807 KAR 5:120
Board proceedings; 807 KAR 5:110
Filing requirements and procedures for federally funded construction project of a water association, a water district, or a combined water, gas, or sewer district; 807 KAR 5:069
Purchased water adjustment for water districts and water associations; 807 KAR 5:068
Rules of procedure; 807 KAR 5:001
Tariffs; 807 KAR 5:011
Treated sewage adjustment for water districts and water accessories; 807 KAR 5:075

REAL ESTATE APPRAISERS BOARD

Continuing education; 201 KAR 30:125
Distance education standards; 201 KAR 30:180
Educational requirements for certification; 201 KAR 30:190
Reciprocity; 201 KAR 30:200
Reciprocity requirements for applicants licensed or certified in another state; 201 KAR 30:200
Standards of practice; 201 KAR 30:040
Types of appraisers required in federally related transactions; certification and licensure; 201 KAR 30:030

RETIREMENT SYSTEMS

Repeal of 105 KAR 1:290 and 105 KAR 1:360; 105 KAR 1:291
Trust fund; Health insurance; 105 KAR 1:410

REVENUE, DEPARTMENT OF

Income Tax; General Administration
Kentucky new markets development program tax credit; 103 KAR 15:180
Forms
Income Tax Forms Manual; 103 KAR 3:040
Property and Severance Forms Manual; 103 KAR 3:030
Selective Excise Tax: Motor Vehicle Usage
Measurement of Compressed Natural Gas (CNG) and liquefied natural gas (LNG) in gallons; 103 KAR 43:330

SCHOOL FACILITIES CONSTRUCTION COMMISSION (*See Finance and Administration Cabinet*)

SECRETARY OF STATE

Address Confidentiality Program
Kentucky Address Confidentiality Program; 30 KAR 6:010

SOCIAL WORK, BOARD OF

Temporary permission to practice; 201 KAR 23:015

TOURISM, ARTS AND HERITAGE CABINET

Fish and Wildlife Resources (*See Fish and Wildlife Resources; Kentucky Department of*) KAR Title 301
Heritage Council
Historic rehabilitation tax credit certifications; 300 KAR 6:010

TRANSPORTATION CABINET

Department of Vehicle Regulation
Driver Licensing, Division
CDL restrictions and endorsements; 601 KAR 11:030
Motor Carriers
Transportation Network Company; 601 KAR 1:112

VETERINARIAN, STATE OFFICE OF

Chronic wasting disease, surveillance in farmed cervids; 302 KAR 20:066

WATER, DIVISION OF

Drinking Water (Public Water Supply)
Bottled water; 401 KAR 8:700
Lead and copper; 401 KAR 8:300
Microbiological monitoring; 401 KAR 8:200